APPENDIX

Supreme Court, U. S.
FILED
DEC 11 1975
MICHAEL RODAK, JR., CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-292

THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA,
a Religious Body, et al.,

Petitioners,

vs.

DIONISIJE MILIVOJEVICH, et al.,

Respondents.

Volume I—Pages 1 to 356
Pleadings—Testimony

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

Petition for Writ of Certiorari
Filed August 26, 1975
Certiorari Granted October 20, 1975

INDEX

PAGE

Relevant Docket Entries in the Proceedings Below 1

PRETRIAL PLEADINGS, OPINIONS AND ORDERS

Complaint for Declaratory Judgment and Injunctive Relief (filed July 26, 1963) 6

Opinion of Illinois Appellate Court, April 7, 1966; Supplemental Opinion, September 7, 1966 10

Second Amended and Supplemental Complaint and exhibits thereto 31

Interim Opinion Re: Motion to Dismiss Second Amended and Supplemental Complaint 61

Order (filed Sept. 11, 1967) 65

Answer to Second Amended and Supplemental Complaint 68

Counterclaim and exhibits thereto 73

Second Interim Opinion Re: (A) Motion by Defendants to Designate Parties; and (B) Motion by Plaintiffs to Strike Defendants' Answer and Counterclaim 86

Order entered June 24, 1968 91

Further Answer to Second Amended and Supplemental Complaint 94

Answer to Counterclaim 103

Reply to Defendants' Answer and Supplemental Answer to the Second Amended and Supplemental Complaint 108

Reply to Affirmative Defense 109

PAGE

TESTIMONY (ABSTRACTED AND VERBATIM)

Brkich, Milan—
- Direct Examination 239
- Cross Examination 258
- Redirect Examination 269
- Recross Examination 271
- Direct Examination 504
- Cross Examination 508
- Direct Examination 692

Damaskin, Metropolitan (Deposition)—
- Direct Examination 184
- Cross Examination 192
- Redirect Examination 196

Grunchich, Milan—
- Direct Examination 370
- Cross Examination 372

Ilicich, Nikanor—
- Direct Examination 163
- Cross Examination 178
- Redirect Examination 184

Ivanovich, Alexander—
- Direct Examination 381, 400
- Cross Examination 402, 403
- Redirect Examination 405
- Recross Examination 406

Kostich, Visarion—
- Direct Examination 196
- Cross Examination 220
- Redirect Examination 236
- Direct Examination 677
- Cross Examination 683
- Redirect Examination 691

PAGE

Kovacevich, Irinej—
- Direct Examination 550, 576
- Cross Examination 583
- Redirect Examination 595
- Direct Examination 712

Meyendorff, John—
- Direct Examination 345
- Cross Examination 367
- Cross Examination 385
- Redirect Examination 396

Milivojevich, Dionisije—
- Direct Examination 438
- Cross Examination 446
- Direct Examination 448
- Direct Examination 466
- Direct Examination 513
- Direct Examination 562
- Cross Examination 597
- Redirect Examination 642
- Direct Examination 713
- Cross Examination 717

Mladenovich, Mladen—
- Direct Examination 110
- Cross Examination 143
- Redirect Examination 161

Neff, Owen C.—
- Direct Examination 718
- Cross Examination 719

Vol. I — pp. 1 to 356; Vol. II — pp. 357 to 719; Vol. III — pp. 901 to 1398; Vol. IV — pp. 1399 to 1833

PAGE

Ocokoljich, Firmilian—
Direct Examination 300
Cross Examination 310
Direct Examination 310, 311
Cross Examination 324
Direct Examination 325
Cross Examination 326
Direct Examination 326
Cross Examination 341
Cross Examination 373
Redirect Examination 375
Examination Under Sec. 60 of the Illinois Civil Practice Act, Ch. 110, Ill. Rev. Stat. 523
Cross Examination 548
Redirect Examination 549
Examination Under Sec. 60 549
Direct Examination 710
Cross Examination 712

Paljich, Nikanor—
Direct Examination 456
Cross Examination 458

Radakovich, Milan—
Direct Examination 296
Cross Examination 298
Redirect Examination 299
Recross Examination 299
Direct Examination 693
Cross Examination 694

PAGE

Shoukletovich, Doushan J.—
Direct Examination 271
Cross Examination 283
Redirect Examination 294
Recross Examination 295
Redirect Examination 295

Stefanovic, Zivan—
Direct Examination 406
Cross Examination 432
Cross Examination 454
Redirect Examination 459

Stepanovich, Nick—
Direct Examination 644
Direct Examination 655
Examination Under Sec. 60 659

Tobias, Robert—
Direct Examination 694
Cross Examination 700
Redirect Examination 709

Vasilije, Bishop of Zhica—
Direct Examination 660
Cross Examination 667
Redirect Examination 675
Recross Examination 677

Vuyovich, Robert—
Direct Examination 376
Cross Examination 380

PAGE

PLAINTIFFS' EXHIBITS

Plaintiffs' Exhibit No.		
1	5/10/63 Minutes of Holy Synod re Suspension of Dionisije	901*
2	5/10/63 Minutes of Holy Assembly of Bishops re Accusations against Dionisije	902
2B	Corrected Translation of PX 2	904
3	5/10/63 Letter from Synod to Firmilian re Suspension of Dionisije	905
3D	5/10/63 Letter from Synod to Dionisije re His Suspension	906
4	5/10/63 Minutes of Holy Assembly of Bishops re Reorganization	908
4C	2/13/62 Letter of Dionisije to Synod re Metropolia	911
5A	5/17/63 Letter from Synod to Firmilian re Reorganization	913
7	5/17/63 Letter from Synod to Firmilian re Reorganization	915
7D	5/17/63 Letter from Synod to Dionisije re Reorganization	917
8	7/27/63 Decision of Holy Assembly to Remove Dionisije	919
9	7/29/63 Letter from Synod to Firmilian re Removal	923

* Note: The page numbers from 720 to 900 were omitted in printing.

PAGE

Plaintiffs' Exhibit No.		
10	7/29/63 Letter from Synod to Firmilian re His Election as Bishop	924
11	7/29/63 Letter from Synod to Dionisije re His Removal	925
12	7/29/63 Letter from Synod to Gregory Udicki re His Election	926
13	6/13/63 Letter from Synod to Gregory Udicki	927
14	6/13/63 Letter from Synod to Gregory Udicki	928
15	6/9/63 Letter to Synod from Plenum re 5/10/63 Decisions of Hierarchy	929
16	Synod's Indictment of Dionisije	930
17	7/6/63 Communique to Diocese from Chrysostom and Visarion	981
18	11/12/63 Synod's confirmation of 5/10/63 Decision	983
19	11/18/63 Letter from Dionisije to Synod re Indictment	985
20	12/10/63 Decision of Synod	987
21	3/5/64 Judgment of Holy Assembly against Dionisije	989
22	3/16/64 Letter from Patriarch to Firmilian re Dionisije's Defrockment	1009
23	6/5/67 Proclamation by Patriarch re Bishop Sava	1010
24	9/13/21 Decision of Holy Assembly to Send Delegation to America	1011

PAGE

PLAINTIFFS' EXHIBIT No.

25 9/13/21 Decision of Holy Assembly to Establish American-Canadian Diocese 1012

26 12/8/22 Minutes of Holy Assembly re Election of Mardary as Administrator 1015

27 11/22/25 Minutes of Holy Assembly re Election of Mardary as Bishop 1016

28 10/25/28 Minutes of Holy Assembly re Diocesan Constitution 1017

30 1939 Constitution of American-Canadian Diocese 1019

31 5/24/39 Minutes of Holy Assembly re Amendments to Diocesan Constitution 1071

32 12/14/35 Minutes of Holy Assembly re Death of Mardary 1073

33 6/21/36 Minutes of Holy Assembly re Administration of Diocese 1074

34 6/22/38 Minutes of Holy Assembly re Election of Damaskin as Bishop 1075

35 12/8/39 Minutes of Holy Assembly re Election of Dionisije as Bishop 1077

36 12/8/39 Notice of Dionisije's Election 1078

37 8/29/38 Dionisije's Bishop's Oath 1078

38 1951 Minutes of Holy Assembly re Report of Dionisije 1090

40 1951 Minutes of Holy Assembly re Letter of Dionisije 1091

PAGE

PLAINTIFFS' EXHIBIT No.

41 5/16/52 Minutes of Holy Assembly re Letters from Bishops 1092

42 12/9/56 Letter of Dionisije to Patriarch re Diocesan Regulations 1094

43 9/9/58 Minutes of Holy Assembly re Letter of Dionisije 1096

45 5/19/53 Minutes of Holy Assembly re Letter of Dionisije 1096

46 6/7/58 Decision of Holy Assembly re Diocesan Rules 1098

47 7/15/58 Minutes of Holy Assembly re Letter of Dionisije 1099

48 6/9/59 Minutes of Holy Assembly re Letter of Dionisije 1100

49 4/9/60 Letter of Dionisije to Synod re By-laws of Clergy Association 1102

50 6/9/60 Minutes of Holy Assembly re Letter of Dionisije 1103

53 1/24/63 Report of Damaskin Delegation re Complaints against Dionisije 1105

54B 5/8/63 Minutes of Holy Assembly re Letter of Dionisije 1107

55 8/10/63 Letter from Synod to Firmilian re Message of Holy Assembly 1108

55B 7/27/63 Message of Holy Assembly 1109

56 6/9/62 Minutes of Holy Assembly re Letter of Dionisije 1113

PAGE

PLAINTIFFS' EXHIBIT No.

57 6/14/62 Minutes of Holy Assembly re Report of Dionisije 1115

58 5/25/62 Letter of Dionisije to Holy Assembly 1118

59 9/3/63 Letter of Synod to Dionisije re Church-Peoples' Assembly 1120

61 5/20/55 Letter of Synod to Dionisije re Appointment of Firmilian as Deputy 1122

67 7/13/66 Letter of Patriarchate of Moscow to Serbian Patriarch re Letter of Dionisije 1123

67A 7/13/66 Letter of Patriarchate of Moscow to Dionisije 1124

67G 3/2/66 Letter of Dionisije to Russian Patriarch 1125

67H 7/13/66 Letter of Patriarchate of Moscow to Dionisije 1134

68 1957 Constitution of Serbian Orthodox Church ..1136

69 1961 Penal Code of Serbian Orthodox Church 1243

71 6/3/63 Letter to Synod from Dionisije re 5/10/63 Decisions of Hierarchy 1271

72 6/12/62 Minutes of Holy Assembly re Proposal of Dionisije 1278

73 6/12/62 Minutes of Holy Assembly re Appointment of Damaskin Delegation 1279

74 5/25/63 Circular Letter of Dionisije re 5/10/63 Decisions of Hierarchy 1281

75 6/6/63 Letter of Dionisije to Plenum re 5/10/63 Decisions of Hierarchy 1289

PAGE

PLAINTIFFS' EXHIBIT No.

76 6/3/63 Circular Letter of Dionisije re 5/10/63 Decisions of Hierarchy 1291

77 6/12/63 Proclamation of Dionisije re 5/10/63 Decisions of Hierarchy 1300

78 Vidovdan, 1963 Proclamation of Dionisije re Investigating Commission 1311

79 Vidovdan, 1963 Proclamation of Dionisije 1313

80 6/7/63 Letter of Dionisije to Firmilian re Removal of Firmilian as Deputy 1321

81 6/7/63 Letter of Dionisije to Mijatovich and Djurich re their Removal from Diocesan Council 1323

82 7/5/63 Minutes of Investigating Commission Meeting with Dionisije 1324

84 Dionisije's Book "Violations" (1965) (Excerpts: Resolutions of Diocesan Assemblies of 1948, 1952, 1956, 1960) 1325

84B 6/3/63 Letter of Dionisije to Synod 1346

84I 2/13/62 Report of Dionisije to Holy Synod re Diocesan Delegation 1353

84L 6/13/63 Letter of Holy Synod to Dionisije re Investigating Commission 1355

84S 11/18/63 Letter of Dionisije to Holy Synod re Indictment 1356

84T 11/18/63 Power of Authorization Executed by Dionisije 1358

PAGE

PLAINTIFFS' EXHIBIT No.

84Q 7/29/63 Letter from Patriarch to Dionisije re Removal of Dionisije 1359

84W 1/25/64 Letter of Dionisije to Holy Synod re Indictment 1360

84X 11/14/63 Decision of 10th Church-National Assembly re Autonomy of Diocese 1365

84CC Nov. 1963 Proclamation of 10th Church-National Assembly 1369

85 4/17/63 Report of Diocesan Executive Board re Unity with Church in Yugoslavia 1375

86 5/9/63 Resolution of Clergy Association re Unity with Church in Yugoslavia 1378

87 6/7/63 Letter of Dionisije to Brkich Removing Brkich as Episcopal Vicar 1382

88 7/15/63 Proclamation of Dionisije 1383

91 Certificate of Incorporation of Serbian Eastern Orthodox Diocese Council (1927) 1394

92 Certificate of Incorporation of Illinois Religious Corporation (1935) 1399

93 Certificate of Incorporation of New York Religious Corporation (1942) 1403

96 3/22/65 Decision of Diocesan Ecclesiastical Court re Non-followers of Dionisije 1404

98 9/3/68 Letter of Dionisije to Attorney for Dushan Shukletovich re Pension 1407

101 4/6/61 Letter of Dionisije to Doushan Shouletovich re Pension 1408

PAGE

PLAINTIFFS' EXHIBIT No.

106 6/6/63 Minutes of Diocesan Plenum re 5/10/63 Decision of Hierarchy 1409

108 1962 Articles of Incorporation of California Religious Corporation 1418

109 2/11/64 Decision of Diocesan Court re Use of Cemetery 1424

113A 11/4/63 Letter of Dionisije to Vladimir Mrvichin, Dismissing Mrvichin as Vicar 1425

115 11/23/62 Minutes of Diocesan Executive Board ..1426

117 6/30/62 Letter of Dionisije to Clergy re Church Unity 1439

120 5/30/63 Letter of Dionisije to Firmilian re 5/10/63 Decisions of Hierarchy 1440

121 1963 Letter of Firmilian to Uros Seferovic re Sabor 1442

123A 6/29/63 Letter of Dionisije to Simeon Grozdanovich re Reception of Investigating Commission 1443

126 6/13/63 Letter of Holy Synod to Firmilian 1444

128 10/18/63 Letter of Holy Synod to Firmilian re Effect of Reorganization 1446

129 Certificate of Incorporation of Monastery Corporation (1945) 1447

130 2/4/24 Deed to Mardary 1450

131 11/9/27 Deed from Mardary to Diocese Council 1452

PAGE

PLAINTIFFS' EXHIBIT NO.

132 9/4/41 Deed from Diocese Council to Illinois Religious Corporation 1457

136 4/12/45 Deed from Illinois Religious Corporation to Monastery Corporation 1459

150 4/22/69 Deed from Illinois Religious Corporation to Pennsylvania Religious Corp. 1463

151A 7/24/63 Resolution of Diocesan Executive Committee re Actions of New Bishops 1466

152 6/12/63 Letter of Diocesan Plenum to Clergy re Church National Assembly 1474

154 By-laws of Diocesan Pension Fund (effective 1/1/53) 1477

195A 1/24/63 Report of Investigating Commission 1482

197A 8/10/63 Report of Investigating Commission 1535

217 Testimony of Dionisije in *Rumanian Episcopate* v. *Trutza* (1953) 1544

223 4/15/57 Letter of Dionisije to Clergy re Suspension of Antonije Abramovich 1556

229 11/14/63 Resolution of Diocesan Council to Amend Diocesan Constitution 1558

PAGE

DEFENDANTS' EXHIBITS

DEFENDANTS' EXHIBIT NO.

29 Confirmation of Dionisije as Bishop of American Diocese by King Peter 1570

29C Confirmation of Dionisije as Vicar Bishop by King Peter 1572

30 1913 Minutes of Serbian Orthodox Priests' & People's Convention 1573

31 1916 Minutes of Serbian Orthodox Priests' Assembly 1588

32 1917 Release of Father Mardary by Synod 1598

33 1917 Call to American Serbs to Organize as Independent Serbian Diocese 1598

35 1923 Notice to American Serbs of Mardary's Election as Administrator 1600

36 1922 Letter to Mardary from Bishop Nikolaj re Duties as Administrator 1601

37 2/21/23 Minutes of Serbian-American Priests Conference 1602

49 7/21/27 Call for Church National Assembly 1605

51 Portions of the 1928 Constitution of Serbian Eastern Orthodox Diocese for the United States of America & Canada 1607

61 11/27/62 Unsigned Charges against Dionisije 1612

64 4/25/26 Order of King Appointing Mardary Bishop of American-Canadian Diocese 1620

PAGE

DEFENDANTS'
EXHIBIT No.

77 6/25/38 Letter of Patriarchate to Diocesan Court re Release of Irinej as Administrator and Election of Damaskin as Bishop 1622

78 6/23/36 Letter of Patriarchate to Diocesan Court re Appointment of Irinej as Administrator 1623

81 Sept. 1960, Resolution of the IXth Diocesan Church-Peoples Assembly 1624

99 11/7/46 Decision of Holy Synod re Appeal of Nikola Drenovac from Diocesan Judgment 1626

101 11/7/46 Decision of Holy Synod re Appeal of Strahinja Maletich from Diocesan Judgment 1629

113 5/3/50 Decision of Holy Synod re Appeal of Vojislav Gacinovich from Diocesan Judgment ..1632

116 8/16/62 Letter of Damaskin to Dionisije re Delegation 1634

142 4/20/62 Letter of Synod to Dionisije re Meeting of Holy Assembly 1634

143 3/2/62 Letter of Synod to Dionisije re Meeting of Holy Assembly 1635

145 3/27/62 Letter of Synod to Dionisije re Diocesan Delegation 1636

149 5/17/63 Letter of Synod to Dionisije re Reorganization of Diocese 1637

150 7/11/63 Letter of Dionisije to Synod re Investigating Commission 1640

151 7/13/63 Letter of Dionisije to Investigating Commission 1645

PAGE

PLAINTIFFS'
EXHIBIT No.

152 7/20/63 Report of Investigation Commission to Holy Synod 1646

193 5/11/63 Minutes of Holy Assembly of Bishops re Election of Lastavica as Bishop 1650

194 5/17/63 Minutes of Holy Synod of Bishops re Reorganization of Diocese 1656

198 6/10/63 Minutes of Meeting in St. Sava Church, Pittsburgh, Pa. 1661

218 12/23/62 Letter of Dionisije to Synod re Visit of Delegation 1674

220 10/1/45 Article from Serbian Orthodox Church Herald 1695

221 9/4/41 Consent of Dionisije to Transfer of Land from Diocese Council to Illinois Religious Corporation 1698

240 August 1963 Proclamation of 10th Church National Assembly 1703

241 8/10/63 Report of Investigating Commission 1719

243 12/10/63 Minutes of Holy Synod 1727

249 7/27/63 Minutes of Holy Assembly of Bishops 1735

250 7/26/63 Minutes of Holy Assembly of Bishops 1746

254 3/5/64 Minutes of Holy Assembly re Defrockment of Dionisije 1754

255 9/13/21 Minutes of Holy Assembly of Bishops re Establishment of American Diocese 1762

258 7/5/63 Letter of Dionisije to Hrizostom and Visarion re Visit of Investigating Commission 1765

PAGE

POST-TRIAL MOTIONS
OPINIONS AND ORDERS

Memorandum Decision of Circuit Court 1767

Final Decree (dated April 30, 1973) 1780

Defendants' Motion to Reconsider (filed May 18, 1973) 1792

Plaintiffs' Motion for Possession (filed May 24, 1973) 1797

Order (filed May 30, 1973) 1798

Supersedeas Order (filed July 23, 1973) 1799

Opinion of the Supreme Court of Illinois 1800

In the
Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-292

THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA,
a Religious Body, et al.,

Petitioners,

vs.

DIONISIJE MILIVOJEVICH, et al.,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

APPENDIX

RELEVANT DOCKET ENTRIES IN THE PROCEEDING BELOW

(Docket of the Circuit Court of Lake County, Illinois)

No. 63-1644

Serbian Eastern Orthodox Diocese for the United States of America and Canada, etc., et al.

vs.

Firmilian Ocokoljich, et al.

Date	*Minutes of Court*
[July 26, 1963]	[Complaint filed]
Feb. 28, 1964 (Yager)	Plaintiff given leave to file Motion for Summary Judgment herein instanter—same filed.
Apr. 27, 1964 (Yager)	Certain parties given leave to file Answer to Complaint, Amended and Supplemental Complaint, Answer to Counterclaim.
Dec. 31, 1964 (Yager)	Motion for Summary Judgment granted.

No. 63-2312

The Right Reverend Bishop Firmilian Ocokoljich, et al.

vs.

Dionisije Milivojevich

Date	*Minutes of Court*
[Oct. 14, 1963]	[Complaint filed]
Dec. 13, 1963 (Yager)	On Motion of Defendant cause consolidated and to proceed under General number 63-1644.
June 9, 1964 (Yager)	Certain Defendants given leave to file Motion to Dismiss herein instanter—same filed.
Dec. 31, 1964 (Yager)	Amended and Supplemental Complaint heretofore filed in cause Gen. No. 63-2312 dismissed.

[The Summary Judgment in favor of Plaintiffs in Gen. No. 63-1644, and the Dismissal of Gen. No. 63-2312 were reversed by the Appellate Court of Illinois on Dec. 9, 1966, and remanded for further proceedings. The following docket entries are proceedings after remand of the cases, consolidated under Gen. No. 63-1624.]

Date	*Minutes of Court*
Feb. 27, 1967 (Seidenfeld)	Plaintiff [present Petitioners] given leave to file Second Amended and Supplemental Complaint herein instanter—same filed—cause assigned to Honorable L. Eric Carey.

Apr. 27, 1967 (Seidenfeld)	[Defendants] given leave to file Motion to dismiss on their behalf—same filed.
Sept. 11, 1967 (Carey)	Second Amended & Supplemental Complaint heretofore filed herein dismissed as to certain Defendants —Motions to Dismiss Counts I and III of Second Amended & Supplemental Complaint denied. Interim Opinion Re: Motion to Dismiss . . . ordered filed. . . .
[Oct. 31, 1967]	[Defendants' Answer to Second Amended and Supplemental Complaint filed.]
Feb. 13, 1968 (Carey)	Motions by Plaintiffs to Strike etc. heard and taken under advisement by the Court—Defendants given leave to file Motion to interpret the pleadings instanter—same filed—Defendants given 10 days in which to file objections to said Motion—all as per order.
[June 17, 1968]	[Second Interim Opinion Re: (A) Motion by Defendants to Designate Parties; and (B) Motion by Plaintiffs to Strike Defendants' Answer and Counterclaim.]
June 24, 1968 (Carey)	Motion to Strike certain portions of Answer heard and allowed in part and denied in part all as per order.

[June 26, 1968]	[Defendants' Further Answer to Second Amended and Supplemental Complaint filed.]
	[Plaintiffs' Answer to Counterclaim filed.]
Nov. 13, 1968 (Carey)	Plaintiffs given leave to file Reply to Defendants' Answer and Supplemental Answer to Second Amended and Supplemental Complaint instanter—same filed.
Dec. 27, 1968 (Carey)	Cause set down for trial on April 7, 1969 at 9:30 A.M. before Judge Carey all as per order. (See Order.)
Apr. 7, 1969 (Carey)	Case called for hearing—Parties in open Court by their respective attorneys — Proofs heard — adjournment.
July 31, 1970 (Carey)	Trial resumed—Proofs closed.
Sept. 28, 1970 (Carey)	[Defendants] given leave to file instanter Motion for Temporary Injunction—Same filed.
	[Defendants' Reply to Affirmative Defense Filed.]
Nov. 12, 1970 (Carey) (Hinton)	Petition for Temporary Injunction etc., heard and denied.
[Dec. 28, 1972]	[Memorandum Opinion Filed.]

Apr. 30, 1973 (Carey)	Final Decree.
[May 18, 1973]	[Defendants' Motion to Reconsider filed.]
[May 24, 1973]	[Plaintiffs' Motion for Possession filed.]
May 30, 1973 (Carey)	Motion of Defendants to Reconsider Denied—Motion of Defendants for Stay or Supersedeas Bond Denied—Motion of Plaintiff for Possession set down for hearing.
[June 8, 1973]	[Notice of Defendants' Appeal.]
[June 18, 1973]	[Notice of Cross-Appeal.]
July 23, 1973 (Carey)	Force and effect of Paras. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 19 and 20 of Court's findings and Paras. 1, 2, 3, 4, 5, 6, 8 and 10 of Decretal portion of Decree entered on April 30, 1973 and described in Notice of Appeal filed herein ordered stayed pending Appeal, and enforcement of said provisions suspended.

**PRE-TRIAL PLEADINGS,
OPINIONS AND ORDERS**

IN THE CIRCUIT COURT OF THE
19TH JUDICIAL DISTRICT OF ILLINOIS

(Title Omitted in Printing)

COMPLAINT FOR DECLARATORY JUDGMENT
AND INJUNCTIVE RELIEF

Now come the Plaintiffs herein, Serbian Eastern Orthodox Diocese for United States of America and Canada, a Corporation, and Serbian Orthodox Monastery of Saint Sava, a General Not For Profit Corporation by Snyder, Clarke, Dalziel, Holmquist & Johnson, their attorneys, and complain of the Defendants, Firmilian Ocokolich, Stevan Lastavica, Grigorie Udicki and The First State Bank of Libertyville, of Libertyville, Illinois, an Illinois Banking Corporation, as follows:

COUNT I

1. That Plaintiff Serbian Eastern Orthodox Diocese for United States of America and Canada is a religious Organization duly organized and existing under the laws of the State of Illinois, having its principal office in Libertyville, Lake County, Illinois, and Plaintiff Serbian Orthodox Monastery of Saint Sava is a General Not For Profit Corporation, organized and existing under the laws of the State of Illinois.

2. That Plaintiffs are the bona fide owners of certain funds, moneys, securities and deposits which were heretofore deposited by said Plaintiffs with the Defendant The First State Bank of Libertyville, Libertyville, Illinois, consisting of cash on deposit in various accounts and certain certificates, securities or bonds deposited in the name of

the Plaintiffs in a certain safety deposit box, said cash and securities totalling, to-wit: $63,000.00.

3. That on or about the 18th of July, 1963 the Defendant, Firmilian Ocokolich, caused to be served upon said Defendant, The First State Bank of Libertyville, Libertyville, Illinois, a Notice that said Firmilian Ocokolich purported to be the properly appointed administrator of the affairs of the Plaintiffs, and that said bank should forthwith cease and desist from disbursing any funds of said Plaintiffs, including all checking and savings accounts on deposit at said bank, and, further, to honor requests for funds or money withdrawals only upon the written direction of said Defendant.

4. That as a result of said Notice, the Defendant The First State Bank of Libertyville, Libertyville, Illinois, by reason of the conflicting claims, warnings and representations of the Defendants, as heretofore stated, is in great doubt as to which party is entitled to the proceeds of the deposits, contents of safety deposit boxes, and other assets in its hands; and said bank, after demand, refuses to make any disposition or disbursement of any such assets and funds belonging to the Plaintiffs herein.

5. That the Defendant Firmilian Ocokolich otherwise holds himself out as and presumes to act as an administrator of a portion of the property of the Plaintiffs herein, to the prejudice of the rights of the Plaintiffs and to the prejudice of the administration of their property, all without authority, right or permission of the Plaintiffs herein.

6. That the Defendant Stevan Lastavica holds himself out as, and presumes to act as an administrator of a portion of the property of the Plaintiffs herein, to the prejudice of the rights of the Plaintiffs and to the prejudice of

the administration of their property, all without authority, right or permission of the Plaintiffs herein.

7. That the Defendant Grigorie Udicki holds himself out as, and presumes to act as an administrator of a portion of the property of the Plaintiffs herein, to the prejudice of the rights of the Plaintiffs and to the prejudice of the administration of their property, all without authority, right or permission of the Plaintiffs herein.

8. That an actual and justifiable controversy involving the rights and property of the parties hereto exists between the parties.

WHEREFORE, Plaintiffs demand that the Court adjudge:

A. That none of the Defendants, Firmilian Ocokolich, Stevan Lastavica and Grigorie Udicki, are entitled to interfere with the administrative affairs, properties, moneys, assets, or functions of the Plaintiffs herein.

B. That the Defendant, The First State Bank of Libertyville, Libertyville, Illinois, be ordered to pay out said funds and deliver said property to the order of the Plaintiffs herein, their agents and duly authorized signatories, as the sole owners thereof.

C. Otherwise declare the rights of the parties herein.

COUNT II

Now come the Plaintiffs herein, Serbian Eastern Orthodox Diocese for United States of America and Canada, a Corporation, and Serbian Orthodox Monastery of Saint Sava, a General Not For Profit Corporation, by Snyder, Clarke, Dalziel, Holmquist & Johnson, their attorneys, and complain of the Defendants, Firmilian Ocokolich, Stevan Lastavica and Grigorie Udicki, as follows:

1. The Plaintiffs reallege the allegations of Paragraph 1 of Count I of this Complaint as and for Paragraph 1 of this Count with the same force and effect as if said paragraph was repeated herein in detail.

2. The Plaintiffs reallege the allegations of Paragraph 2 of Count I of this Complaint as and for Paragraph 2 of this Count with the same force and effect as if said paragraph was repeated herein in detail.

3. The Plaintiffs reallege the allegations of Paragraph 3 of Count I of this Complaint as and for Paragraph 3 of this Count with the same force and effect as if said paragraph was repeated herein in detail.

4. The Plaintiffs reallege the allegation of Paragraph 4 of Count I of this Complaint as and for Paragraph 4 of this Count with the same force and effect as if said paragraph was repeated herein in detail.

5. The Plaintiffs reallege the allegations of Paragraph 5 of Count I of this Complaint as and for Paragraph 5 of this Count with the same force and effect as if said paragraph was repeated herein in detail.

6. The Plaintiffs reallege the allegations of Paragraph 6 of Count I of this Complaint as and for Paragraph 6 of this Count with the same force and effect as if said paragraph was repeated herein in detail.

7. The Plaintiffs reallege the allegations of Paragraph 7 of Count I of this Complaint as and for Paragraph 7 of this Count with the same force and effect as if said paragraph was repeated herein in detail.

8. That the interference of said Defendants, Firmilian Ocokolich, Stevan Lastavica and Grigorie Udicki, is wilful, unlawful and without just cause.

9. That the said acts of the said Defendants, Firmilian Ocokolich, Stevan Lastavica and Grigorie Udicki, have, do, and in the future will cause irreparable injury and damage to the property of the Plaintiffs herein.

10. That the Plaintiffs have no adequate remedy at law.

WHEREFORE, the Plaintiffs pray that the Court:

A. Issue its Writ of Permanent Injunction enjoining the Defendants, Firmilian Ocokolich, Stevan Lastavica and Grigorie Udicki, from representing themselves to be bona fide administrators or agents of the Plaintiffs herein, with any dominion or control over the assets or affairs of the Plaintiffs herein.

B. Issue its Writ of Permanent Injunction restraining the Defendants, Firmilian Ocokolich, Stevan Lastavica and Grigori Udicki, from further interference with the affairs or assets of the Plaintiffs herein.

C. Such further relief as the Court deems fit and proper and the exigencies of the case require.

SNYDER, CLARKE, DALZIEL,
HOLMQUIST & JOHNSON

By *Daniel J. Dalziel*
Attorneys for the Plaintiffs.

IN THE
APPELLATE COURT OF ILLINOIS

Serbian Eastern Orthodox Diocese for United States of America and Canada, etc., et al., Plaintiffs-Appellees, v. Firmilian Ocokoljich, et al., Defendants-Appellants.

The Right Reverend Bishop Firmilian Ocokoljich, et al., Plaintiffs-Appellants, v. Dionisije Milivojevich, Defendant-Appellee.

Gen. No. 65-40.

Second District.

April 7, 1966.

Supplemental opinion September 7, 1966.

Rehearing denied September 7, 1966.

Mr. Justice Davis delivered the opinion of the court.

This appeal involves two actions—consolidated in the trial court—which narrate a dispute over the control of the Serbian Eastern Orthodox Diocese for United States and Canada, and the property and assets of this Diocese, and of a related institution. The trial court determined this matter by granting a summary judgment in one suit, and granting a motion to dismiss in the other. The judgment and order were based upon extensive pleadings, depositions and affidavits. Because of the summary presentation and the conflicting representations of the parties, the factual background necessary to an understanding of the case, is not in all respects certain.

We will relate the church and corporate histories, and the church and corporate laws of the institutions involved, as best we comprehend them under the posture of this appeal, in that such background is essential to an understanding of the issues involved in these pleadings.

In California and Pennsylvania in the 1890's, Americans of Serbian descent formed completely autonomous religious associations. In 1917, these Serbian church societies became associated with the Russian Orthodox Church which sent Father Mardarije Uskokovich to this country to organize an "independent" Serbian Diocese in America.

In the 1920's, the Diocese in this country became affiliated with the Serbian Orthodox Church of Yugoslavia. This Diocese was incorporated in 1927 under the laws of the State of Illinois, as a religious society, under the name of "Serbian Orthodox Diocese Council for United States and Canada." It duly adopted a Constitution, which was approved by the Serbian Orthodox Church of Yugoslavia.

This charter was permitted to lapse, and in 1935, a new religious society was again incorporated under the laws of the State of Illinois, and was called "Serbian Eastern Orthodox Diocese for United States of America and Canada." Its Constitution was substantially the same as that of the first corporation and it was likewise approved by the Serbian Orthodox Church of Yugoslavia.

The Holy Bishops Assembly of the Serbian Orthodox Church, Yugoslavia, elected Dionisije Milivojevich as Bishop in 1938, and the following year appointed him as Bishop of the Diocese in this country. When King Peter II of the Kingdom of Yugoslavia was deposed by the Communists in 1944, Bishop Dionisije became concerned that efforts might be made by the Communist government to obtain control of the property of the Diocese in this country. Consequently, this religious corporation, acting through its Diocesan Council, which is hereafter more fully defined, adopted a resolution calling for the incorporation—under the general not-for-profit corporate laws of the State of Illinois—of a separate corporation, to which the assets of the religious corporation would be transferred and in which the title to the various assets would be held. Such a corporation was formed in the year 1945 under the name "Serbian Orthodox Monastery of Saint Sava."

Before completing this chronology, we will briefly relate the relevant portions of the Constitutions and By-laws of the Serbian Orthodox Church; of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, the religious corporation; and of the Serbian Orthodox Monastery of Saint Sava, the not-for-profit corporation.

The Constitution of the Serbian Orthodox Church (with its headquarters in Belgrade, Yugoslavia) sets forth that the Serbian Orthodox Church is autocephalous, and governs and regulates independently, all of its religious affairs; and that it has the rank of a Patriarchate and maintains dogmatic and canonical unity with all other Orthodox Churches. It provides that the Church is episcopal with the main administrative divisions "composed of dioceses, both in regard to church hierarchical and church administrative aspect."

Article 10 provides that there are the following church hierarchical and administrative authorities, bodies and organs:

> "1. Patriarch, Holy Bishop's Council and Holy Synod, High Ecclesiastical Court, Patriarchal Council and Patriarchal Board;
>
> "2. Diocesan Bishop, diocesan ecclesiastical court, diocesan council and diocesan executive board; . . . ."

Additional authorities at a level below the dioceses are then set forth which are not pertinent to this decision.

It is provided in Article 12:

> "The Serbian Orthodox Church is episcopal. Its main administrative division is composed of dioceses, both

in regard to *church hierarchical and church administrative aspect.*" (Emphasis ours.)

Article 13 provides in part:

> "At the head of each diocese there is the diocesan bishop as its direct ruler. He is, according to the church canonical regulations, chief representative and guiding leader of all church spiritual life and church order in the diocese and he rules the diocese assisted by his clergy and laymen."

Article 14 reads: "These are the Dioceses in the Serbian Orthodox Church. . . ." It then lists a number of dioceses, all located within Yugoslavia. Article 15 provides that in addition to the dioceses previously named, there are additional dioceses outside of Yugoslavia "under the jurisdiction of the Serbian Orthodox Church *in spiritual and hierarchical aspect.*" (Emphasis ours.) Among those listed is the Serbian Orthodox Church in the United States of America and Canada. Article 16 provides that "Decisions of establishing, naming, liquidating, reorganizing, and the seat of dioceses . . . is decided by the Holy Council of Bishops, in agreement with the Patriarchal Council." For the reasons hereinafter stated, we believe that Article 16 applies only to those dioceses of the Serbian Orthodox Church which are under its jurisdiction in both church hierarchical and church administrative aspects.

Next, in the body of private laws governing the institutions before the court, is the Constitution of the Diocese. It states that the Diocese "is considered ecclesiastically—judicially as an organic part of the Serbian Patriarchate in the Kingdom of Yugoslavia." Article 2 provides that "All statutes and rules which regulate the

ecclesiastical—canonical authority and position of the Serbian Orthodox Church in the Kingdom of Yugoslavia are also compulsory" on the Diocese "with the exception of specific cases which must be formulated with regard to local circumstances in accordance with ecclesiastical and judicial principles."

Article 3 of this Constitution provides that the jurisdiction of this Diocese includes the entire political territory of the United States and Canada, which by its geographical location enjoys "full administrative freedom" under which "it can independently regulate and rule the activities of its church, schools and other diocesan institutions and all funds and beneficiaries, through its organs, but in accordance with the laws of this constitution and in agreement with the laws of the United States of America and Canada." The highest legislative and administrative authority of the Diocese is the Diocesan National Assembly; its executive and administrative organ is the Diocesan Council. The Diocesan Assembly is opened by the Diocesan Bishop. One of its functions is to make changes and amendments to the Constitution "with the approval of the Holy Bishop's (sic) Assembly of the Serbian Patriarchate."

Article 9 provides that the Bishop of the diocese shall be appointed by the Holy Assembly of Bishops of the Serbian Patriarchate. Article 13 specifies that when the seat of the Diocese Bishop is vacated, the administration of the Diocese, in spiritual and administrative matters, shall be upheld by the Diocesan Ecclesiastical Court and Diocesan Council until an administrator is appointed "by the Serbian Patriarch with the Holy Pontifical Synod." Article 14 provides that the Diocesan Bishop is the supreme head of the St. Sava Monastery in Liberty-

ville and that he appoints the abbot of the monastery and "conducts the canonical supervision and the higher executive authority over the monastery."

Article 149 provides that the property owned by the Diocese is "to serve exclusively for the purpose designated by the statutes of this Constitution and cannot be used for any other purpose." Article 155 provides that the Diocesan Fund consists of "all funds and assets which the Serbian people of the entire Diocese, individually or collectively through their church-school congregations and other various societies and organizations should establish, increase and dedicate to the mutual necessities of its church and school for the religious and educational aims of the entire Diocese." It further provides that the Diocesan Fund is to be supervised by the Diocesan Council. Article 156 provides that all real estate and personal property of the St. Sava Monastery in Libertyville is supervised by the monastery's administration "under the direct control of the Diocesan Bishop."

The Bylaws of the Serbian Orthodox Monastery of Saint Sava—the not for-profit corporation formed in 1945—provide that it is an autonomous Serbian Church institution; and further provide that the corporation "possesses its own property which cannot be disposed of, sold, mortgaged or otherwise conveyed by any Serbian Church authority, without the consent and approval of the Diocesan Council, headed by the Bishop and the Diocesan Church conventions."

Article V provides that the Diocesan Bishop, "received as such by the Diocesan Council, by the Diocesan Church court and by the Diocesan Convention, is the supreme head of the Monastery and is the general overseer according to the Holy Canons of the Church. (By-Law 156

of the Diocese.)" Article VI of the Bylaws provides that the "president of the Board of Directors shall be the canonical Bishop of the Diocese, received as such by the Diocesan Council, by the Diocesan Church Court and by the Diocesan Convention."

With the above Constitutions and corporate histories in mind, we considered the following chronology of events: On May 10, 1963, the Holy Episcopal Synod of the Serbian Orthodox Church of Yugoslavia suspended Bishop Dionisije, and at the same time appointed Firmilian Ocokoljich as administrator of the Diocese; on May 17, 1963, its Holy Episcopal Council disbanded the American-Canadian Diocese and in its place established three new Dioceses, which extended beyond the borders of the United States and Canada and included South Africa and South America; and on said latter date, the Holy Episcopal Synod appointed Firmilian Ocokoljich, Gregorije Udicki and Stefan Lastavica as temporary administrators of the respective Dioceses. The Holy Bishops' Council, on July 27, 1963, discharged Bishop Dionisije as Diocesan Bishop and elected Bishop Firmilian as Diocesan Bishop in his place. It is significant that Bishop Firmilian was not elected as Bishop of the Serbian Orthodox Diocese Council for United States and Canada, but rather was elected as Bishop of one of the three newly created Dioceses. The other two temporary administrators were likewise each respectively elected as a Bishop of one of the other two newly created Dioceses.

The Diocesan National Assembly adopted a resolution declaring the division of the Diocese into three Dioceses, to be unlawful and unconstitutional, and refused to recognize the suspension of Bishop Dionisije or the election of the other three Bishops. The Holy Bishops' Synod of the

Serbian Orthodox Church responded by declaring the Diocesan National Assembly unlawful. In reply to this, the Diocesan National Assembly, at an adjourned meeting held in November, 1963, passed amendments to the Diocese Constitution, declaring the autonomy of the Diocese and its freedom from all control of the Patriarchate in Belgrade. These amendments were not submitted to the Holy Bishops' Assembly for approval. On March 15, 1964, the Holy Episcopal Council, comprised of the Patriarch, Metropolitan and Diocesan Bishops of Yugoslavia defrocked Bishop Dionisije.

The appellees, referred to herein as the "Dionisije faction," brought the first suit in the names of the religious and not-for-profit corporation against the three Bishops of the new Dioceses, appellants, referred to herein as the "three Bishops faction," praying that none of the defendants be permitted to interfere with the administration of the properties of the plaintiff corporations. The "three Bishops faction" brought the second suit praying that the court find that Bishop Dionisije had been removed as Bishop; that the three Bishops be found to be lawfully appointed and be permitted the use of all the Diocesan properties; that only those members of the Church, who recognize the three Bishops, be acknowledged as members of the Serbian Orthodox Church for the Diocese of the United States and Canada; that the two corporations be found to hold their assets in trust for members of the Serbian Orthodox Church residing within the Dioceses, and for other similar relief. As indicated, the trial court consolidated these actions, considered the pleadings, depositions and affidavits, and granted the "Dionisije faction" summary judgment on their complaint and granted their motion to dismiss the complaint of the "three Bishops faction."

The appellants contend that the issue before this court is simply whether they or the appellees, are entitled to exercise the religious authority of the Serbian Orthodox Church in this country. Appellants assert that only ecclesiastical matters are involved, and the appellees urge that only the property rights of Illinois corporations are embraced in this litigation.

We believe that both contentions are correct, in part. While both factions claim the right to control the properties and assets held by the Illinois corporations, neither the religious nor the not-for-profit corporation may claim title to or use of the assets free of trust or use for the benefit of the members of the Diocese. The determination of the disputed right to control such properties and assets cannot be made solely by resolving the question of title or the exercise of corporate authority under the Illinois corporate laws.

Article 155 of the Constitution of the Diocese imposes a trust upon the use of the Diocesan Fund and Article 149 further limits the use of the property "to serve exclusively for the purpose designated by the statutes of this Constitution and cannot be used for any other purpose." Section 46f of the Religious Corporations Act (Ill. Rev Stats 1963, c 32, par 181) further imposes such a trust, which arises by operation of law in the absence of a declaration of trust or use in the gift, devise or grant in the instrument giving the property to the Church.

By the same token, the resolution of the Diocesan Council calling for the creation of the not-for-profit corporation to which the assets of the Diocese were to be transferred, can only have validity if this trust is likewise to follow the assets into the hands of this corpora-

tion and govern the administration of such assets. The creation of the Serbian Orthodox Monastery of Saint Sava, pursuant to the resolution of the Diocesan Council, is consistent with the degree of autonomy and administrative freedom reserved by the Diocese unto itself in Article 3 of the Constitution which provides that "it can independently regulate and rule the activities of its church, schools and other diocesan institutions and all funds and beneficences, through its organs." The bylaw of the not-for-profit corporation providing that its property "cannot be disposed of, sold, mortgaged or otherwise conveyed by any Serbian Church authority without the consent of the Diocesan Council, headed by the Bishop and the Diocesan Church conventions" is not inconsistent with either the trust imposed or the Constitutional requirements of the Diocese.

It is within the framework of these organizational laws that this dispute must be resolved. The protection of the law extends to religious associations the same as to other voluntary associations of benevolent or charitable purposes. The rights of property or other civil rights of such associations are equally under the protection of law, and the actions of their members, subject to its restraints. Ginossi v. Samatos, 3 Ill App2d 514, 520, 123 NE2d 104 (1st Dist 1954).

In Watson v. Jones, 13 Wall 679 (1871), 20 L Ed 666, the United States Supreme Court set forth the three categories of cases which have come before the courts pertaining to the rights of property held by ecclesiastical bodies, namely: (1) When the property, by the express terms of the instrument under which it is held, must be devoted to some specific form of religious doctrine or belief; (2) When the property is held by a religious congregation which, by

the nature of its organization, is strictly independent of other ecclesiastical associations, and so far as church government is concerned, owes no fealty or obligation to any higher authority; and (3) Where the ecclesiastical body holding the property is but a subordinate member of some general church organization in which there are superior ecclesiastical tribunals with a general and ultimate power of control, more or less complete, in some supreme judicatory over the whole membership of the general organization.

The Supreme Court in Kedroff v. St. Nicholas Cathedral of the Russian Orthodox Church in North America, 344 US 94 (1952) at page 110, 97 L Ed 120, 133, 134, also defined the third group—the hierarchical churches—as those organized as a body with other churches having similar faith and doctrine, with a common ruling convocation or ecclesiastical head. We do not believe it can seriously be contended that the American Diocese is not a part of such a hierarchical structure. The constitutions referred to above abound with references to the hierarchical framework, with the Serbian Orthodox Church as the General Church. The Church history indicates this is so, and the manner of incorporating the Diocese in this country further evidences this fact.

There are two methods of incorporating religious societies under the Illinois Religious Corporations Act: sections 35-46 inclusive of the Act provided for the incorporation of independent church organizations (Ill Rev Stats 1963, c 32, pars 164-175, incl.); and sections 46(a)-(k) inclusive, provide for the incorporation of any church organization which is "under the patronage, control, direction or supervision of any ecclesiastical body, diocesan or like ecclesiastical officer. . . ." (Ill Rev Stats 1963,

c 32, pars. 176-186, incl.) The Diocese in this country was incorporated in 1935 under the latter provisions. This fact, together with the constitutional language, church history and practice, clearly establishes the hierarchical nature of the Serbian Orthodox Church. Ginossi v. Samatos, supra, at 525.

In disputes involving churches, hierarchical in nature, the secular courts must accept the decisions of the ecclesiastical judicatories within the structure, as to questions of discipline, faith or ecclesiastical rule, custom or law. If a civil right depends upon an ecclesiastical matter, the civil court must take the ecclesiastical decisions as it finds them. Watson v. Jones, supra; Ferraria, et al. v. Vasconcellos, et al., 31 Ill 25, 46 (1863). It is only where the decision of a church tribunal is tainted with fraud, collusion or arbitrariness that the decision need not be accepted by the secular court. Gonzalez v. Roman Catholic Archbishop of Manila, 280 US 1, 16, 17 (1929), 74 L Ed 131, 137.

The appointment and removal of a Bishop is clearly a canonical act. Kedroff v. St. Nicholas Cathedral of the Russian Orthodox Church of North America, supra; Gonzalez v. Roman Catholic Archbishop of Manila, supra. We may not alter what was done by the ecclesiastical governing authorities in this respect. It is clear that the Diocese recognized the right of the Serbian Patriarchate in this regard by providing in Article 9 of its Constitution that its Bishop shall be appointed by the Holy Assembly of Bishops and by recognizing in Article 2, the ecclesiastical-canonical authority of the Serbian Orthodox Church in the Kingdom of Yugoslavia. We must in this regard accept the ecclesiastical determination that Dionisije is not the Bishop of the Serbian Eastern Orthodox Diocese for the United States of America and Canada.

We do not accept that it must necessarily follow, however, that the action of the Serbian Orthodox Church in dividing this Diocese into three new Dioceses, and changing its boundaries, and in appointing Bishops for the three supposedly new Dioceses, is proper. We find that there was manifested in the Constitution of the Diocese a very evident intent to retain autonomy and independence in the administration of its affairs while accepting the ecclesiastical-canonical authority and position of the Serbian Orthodox Church of Yugoslavia. Thus, Article 2 provides that the Diocese is considered ecclesiastically-judicially as an organic part of the Serbian Patriarchate. It does not state that the Diocese is considered as a part of the Patriarchate administratively. Article 3 provides that the Diocese is to enjoy *full administrative freedom* within the entire political territory of the United States of America and Canada, under which "it can *independently regulate and rule* the activities of its church, school and other diocesan institutions and all funds and beneficences, through its organs, but in accordance with the laws of this constitution and in agreement with the laws of the United States of America and Canada."

Further, the Diocese did not surrender to the Serbian Patriarchate the power to alter or change its basic governing law—its Constitution. The Serbian Patriarchate was not given the power to initiate changes in the Diocesan Constitution, but was only given the power to approve changes to the Constitution introduced and adopted by the Diocesan Assembly. It is inconceivable to us that the Serbian Patriarchate, which is denied the express power to alter or amend the Constitution of the Diocese, has the implied power to totally revoke and abrogate this constitution by decreeing the Diocese to no longer be in existence. We cannot accept such conclusion and find the Constitution

of the Serbian Patriarchate and that of the Diocese consistent in this regard.

Article 12 of the Patriarchate's Constitution provides that the Diocese is the main administrative division of the church in both the church hierarchical and church administrative aspect, and Article 14 significantly states: "These are the Dioceses in the Serbian Orthodox Church" and thereafter lists only the Dioceses with Yugoslavia. In a separate Article—Article 15—there are listed the Dioceses which are "under the jurisdiction of the Serbian Orthodox Church in spiritual and hierarchical aspect." Article 15 does not mention or specify that the Dioceses there listed are under the jurisdiction of the Serbian Church in the administrative aspect. It is there that the American-Canadian Diocese is listed. We believe that Article 16—granting power to establish, liquidate and reorganize Dioceses—applies only to those completely subordinated to the Serbian Orthodox Church, in the administrative aspect as well as in the spiritual and hierarchical aspect, as set forth in Article 12.

The appellees have argued that the Diocesan Assembly, as the highest executive and administrative body of the Diocese, had the power, by majority vote to amend its Constitution, and they cite Kuns v. Robertson, 154 Ill 394, 414, 40 NE 343 (1895) as authority on this point. However, in Kuns, the Constitution contained no provision—as did Article 23(8) of the Diocesan Constitution—that the highest body of the Diocese (the Assembly, in the case at bar) in amending its constitution, must also obtain the approval of yet another society (the Holy Bishops' Assembly of the Serbian Patriarchate, in the case at bar). As we understand the appellees' position, they claim to have validly amended the Constitution in 1963 by the action of the

Diocesan Assembly alone; they do not assert that they renounced its force and effect. Having failed to obtain the approval of the Holy Bishops' Assembly as required by the Constitution, the purported amendments cannot be valid.

In Lawson, et al. v. Kolbenson, et al., 61 Ill 405 (1871), the court held that the congregation could act by its majority and could not be controlled by a higher religious body—a synod. However, we must note the type of religious organization which the court had under consideration when making this pronouncement. At page 421, the court stated:

> "This church organization is unlike those of other denominations, where they can not exist at all except in subordination to a higher and controlling organization. This church had a complete legal existence, self-governing in character, before it united with any synod."

The Lawson case, like the Ginossi case, supra, both cited by the appellees, are the second type of case noted in Watson v. Jones, where the religious organization is completely independent of other ecclesiastical associations. They are not relevant to our determination.

The appellees suggest that the case of Romanian Orthodox Missionary Episcopate v. Trutza, 205 F2d 107 (CA 6th, 1953) is authority for the proposition that they had the right to amend their Constitution so as to elect their own Bishop and declare their complete autonomy. Again, the bylaws and history of the Church show that Trutza is factually inapposite. In Trutza, the sole issue was defined as the right of the Episcopate to elect its own Bishop. When enacted, the bylaws provided that the Episcopate

was autonomous and had power to elect its own Bishop; and that the Episcopate maintained only spiritual and canonical unity with the Romanian Orthodox Church. Thereafter, a Bishop obtained an amendment to the bylaws providing for the election of future bishops by the Holy Synod in Bucharest, and later the Episcopate further amended its bylaws to again restore this power to the Episcopate. It is nowhere contended in Trutza that any of the amendments were made in contravention of the provisions of the existing bylaws. Such is not the case here.

The appellees also rely upon the case of Russian Orthodox Greek Catholic St. Peter & St. Paul's Church of Lorain v. Burdikoff, 177 Ohio App 1, 189 NE2d 451 (CA Ohio 1962) and Ginossi, supra. In Burdikoff, the Patriarch of Moscow had long recognized the autonomy of the Metropolia in this country. The court held that the Patriarch was prevented either by laches or by estoppel from now asserting its control over the Metropolia. On the record in the case at bar, we find no such basis for asserting that the appellants are prevented by laches from asserting control. In Ginossi, the Constitution of the Diocese reserved unto the Diocese "absolute and unqualified" power to amend its constitution and bylaws. Such reservation was absent in the case at bar.

The Supreme Court in Kedroff, at page 116, in referring to the case of Watson v. Jones stated: "The opinion radiates, however, a spirit of freedom for religious organizations, an independence from secular control or manipulation, in short, power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine." This theory is applicable, however, not only to the mother religious organization, the Serbian Orthodox Church, but also to the member religious

organization, the Serbian Eastern Orthodox Diocese for United States of America and Canada. In addition to being religious societies, both are constitutional societies existing within the framework of their respective bodies of law. To the extent that the Diocese retained unto itself certain matters of church government by its Constitution, it is not for the Serbian Orthodox Church to usurp these functions by the pretended power of its higher hierarchical authority.

In the last analysis it must be said that all church societies may not lend themselves precisely to the three categories set forth in Watson v. Jones, supra. As indicated in the divergence of constitutional provisions of the cases which have been before the courts, there may be varying degrees of autonomy. Where, as here, the Diocese has reserved unto itself certain powers of church administration and government, and granted unto a superior tribunal, limited powers—such as the appointment of its head and the approval of any changes in its fundamental law—those reserved powers must be protected not only from State interference, but also from interference from other ecclesiastical societies.

From the views we have expressed herein, the Serbian Orthodox Church has authority to make the ecclesiastical decisions relative to the removal and appointment of a Bishop for the Serbian Eastern Orthodox Diocese for United States of America and Canada, as well as the appointment of a temporary administrator. It exceeded its authority, however, and infringed upon the authority of the Diocese when it purported to change the geographical structure of the Diocese and eliminate its reserved administrative powers, including the control over Church properties, subject to the trust imposed thereon, by dissolving the Diocese and creating three new Dioceses.

Accordingly, the summary judgment granted by the trial court in cause No. 63-1644 is hereby reversed, as is the order dismissing the amended complaint in Cause No. 63-2313; and the causes are remanded with directions to the trial court to proceed, under proper pleading, with a full hearing on the merits of the causes in accordance with the views expressed herein.

Reversed and remanded with directions.

MORAN, P.J. and ABRAHAMSON, J., concur.

SUPPLEMENTAL OPINION ON DENIAL OF PETITION FOR REHEARING

Plaintiffs-appellees, in their petition for rehearing, vigorously contend that the court has misapprehended certain points raised in their brief. We deem this case of sufficient significance to warrant elaborating on our opinion concerning these matters.

Plaintiffs-appellees first contend that the opinion should be corrected to read that the Holy Episcopal Council of the Serbian Orthodox Church of Yugoslavia on May 10, 1963, purported to divide the American-Canadian Diocese into three new Dioceses, and on May 17, 1963, the Holy Episcopal Synod, in executing this decision, appointed Firmilian as temporary administrator of one of the three supposedly newly created Dioceses in place of Bishop Dionisije. This is all quite true and, as pointed out in the opinion, the Serbian Orthodox Church exceeded its authority in these respects. It was without authority to disband the American-Canadian Diocese, and it follows that the purported appointments of temporary administrators and Bishops of these supposedly new Dioceses were without validity.

This decision was, however, only one of the decisions made at the May 10 meeting. The Holy Episcopal Synod, under the date of May 17, 1963, and under No. 1725/2a p 237 and under No. 1726/2a p 238, notified Firmilian of the decision to divide the Diocese and of the facts that Dionisije was Bishop of the newly created Middle Western American Diocese, and having been suspended, that he, Firmilian, was temporary administrator. Under our opinion, this notice and these decisions were likewise void.

Previously, however, under date of May 10, 1963, and under No. 1664/2a p 188, the Holy Episcopal Synod advised Bishop Dionisije that, as of that date, it had suspended him as Bishop of the American-Canadian Diocese pending examination of the charges against him, and that it was appointing Firmilian as temporary administrator thereof in his place. In our original opinion, we held that these ecclesiastical decisions were within the power of the Holy Episcopal Synod, and, as a result, Firmilian was validly appointed temporary administrator, not of one of the supposedly new Dioceses, but of the original American-Canadian Diocese. Later Bishop Dionisije was discharged as such Diocesan Bishop.

Plaintiffs-appellees object to that part of the opinion wherein we state, "We must, in this regard, accept the ecclesiastical determination that Dionisije is not the Bishop of the Serbian Eastern Orthodox Diocese for the United States of America and Canada." They complain that appellants are quoting this sentence for propaganda purposes; that the trial court did not hold a hearing on appellants' complaint, having dismissed it; and that the appellees thus did not have to present proof of such factors as might justify a secular court in not accepting the ecclesiastical decision of a church tribunal.

Our opinion was based on the summary presentation and the conflicting representations of the parties. No testimony was taken at the trial. Consequently, it was not our intent to prejudge what might be presented to the trial court on remandment in an orderly and complete hearing of these consolidated cases on their merits. If, upon proper pleadings, competent testimony and other valid evidence, the appellees can present a case which would warrant and justify the trial court—a civil court—in not accepting a pertinent ecclesiastical decision or decisions, we do not mean to be understood to preclude them from doing so. Our purpose in remanding the case is to afford all of the litigants a complete and full hearing on the merits pertaining to the many issues and questions involved. The factual background of this case is indeed significant, but it is not without dispute, as is evidenced by the numerous conflicting representations made to the court through extensive pleadings, depositions, affidavits, and briefs.

The legal conclusions reached in our opinion are based upon the facts as they appear to us as the case stands at this juncture. Should a full hearing develop factual matters of significance, different from those upon which this opinion is based, then our opinion would be limited accordingly.

While we have due respect for the law of judicial parsimony, we do not believe that an opinion should judicially shortchange the litigants by failing to chart a course of procedure upon return to the trial court. Such failure would aggravate, rather than aid, in the ultimate disposition of the litigation, as well as encourage further appeals.

We will only briefly comment on the contention raised upon rehearing that the 1935 Constitution of the American-Canadian Diocese was a mere contract or compact between it and the Serbian Orthodox Church, which the latter repudiated, renounced and abandoned when it sought to dissolve the Diocese, and that thereafter the Diocese did not have to obtain approval of Constitutional amendments by the Holy Bishops' Assembly as required by the Diocesan Constitution.

To us the Constitution of the Diocese is something more than a contract or compact under which certain powers were delegated by the Diocese which could allegedly be restored unto it upon a repudiation of the contract. We view the Diocesan Constitution, together with the Constitution of the Serbian Orthodox Church, as expressions of the fundamental laws governing the relationship and authority of these respective church organizations—which were thereby joined in certain respects in a hierarchical and episcopal structure—as distinguished from an autonomous or congregational church entity. An act contrary to such constitution is not a repudiation, permitting the Constitution to be abandoned and ignored. Such act is rather without validity, force or effect.

For these reasons, we adhere to the opinion herein as originally adopted, subject to the limitation expressly set forth above.

Moran, P.J. and Abrahamson, J., concur.

IN THE CIRCUIT COURT OF THE
19TH JUDICIAL DISTRICT OF ILLINOIS

(Title Omitted in Printing)

SECOND AMENDED AND SUPPLEMENTAL COMPLAINT

COUNT I

Plaintiffs, Serbian Eastern Orthodox Diocese for the United States of America and Canada, a religious body, and Firmilian Ocokoljich, complain of the defendants Dionisije Milivojevich, Serbian Orthodox Monastery of St. Sava, an Illinois not for profit corporation, Serbian Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation, Right Reverend Bishop Iriney, Nikola Stepanovich, Svetozar Maravich, Uros Seferovich, Todor Polich, Nikola Sever, Robert Vujovich, Milutin Djordjevich, Nikola Cabraja, Bob Lagather, Milutin Bajcetich, Milan Tomich, Mitar Bulatovich, Nikola Krguljac, Mike Radakovich, Steven Balach, Dragoljub, and Voja Popovich, as follows:

1. Plaintiff Serbian Eastern Orthodox Diocese for the United States of America and Canada (sometimes hereinafter referred to as "the diocese") is a hierarchically organized religious body which was established in 1921 in accordance with the customs and canons of the Serbian Orthodox Church.

2. Defendant Serbian Eastern Orthodox Diocese for the United States of America and Canada (sometimes hereinafter referred to as "the religious corporation") is a religious corporation duly incorporated in 1935 under Sections 46a-46k of the Illinois Religious Corporation Act (Ill. Rev. Stat. 1965, chap. 32, para. 176-186).

3. The religious corporation was established for the purpose of acting as the secular arm of the diocese.

4. Plaintiff Firmilian Ocokoljich is the duly appointed temporary administrator of the diocese, and by virtue of that position, the presiding officer of the religious corporation.

5. Defendant Dionisije Milivojevich is a former bishop of the diocese and former presiding officer of the religious corporation. He resides in the County of Lake, State of Illinois.

6. Defendant Serbian Orthodox Monastery of St. Sava (sometimes hereinafter referred to as "the not for profit corporation") is a general not for profit corporation organized in 1945 and existing under the laws of the State of Illinois and has its principal office in the County of Lake, State of Illinois.

7. Upon information and belief, all other individual defendants purport to be members of the Executive Board of the religious corporation or members of the Board of Directors of the not for profit corporation or purport to act in both capacities.

8. The diocese was at all times relevant hereto ecclesiastically and hierarchically a subordinate member of the Hierarchically structured Serbian Orthodox Church whose principal See is in Belgrade, Yugoslavia.

9. The supreme legislative authority in matters of faith, officiation, church order, and internal organization as well as the supreme juridical authority of the Serbian Orthodox Church is the Holy Assembly of Bishops.

10. The supreme executive body of the Serbian Orthodox Church is the Holy Episcopal Synod.

11. On May 10, 1963, the Holy Episcopal Synod, upon the recommendation of the Holy Assembly of Bishops, suspended the defendant Dionisije Milivojevich from his duties and privileges as bishop of the diocese. A true and correct translated copy of that decision is attached to this complaint as "Exhibit A" and incorporated herein.

12. By its decision of May 10, 1963, the Holy Episcopal Synod appointed plaintiff Firmilian Ocokoljich temporary administrator of the diocese. That decision is included in "Exhibit A" to this second amended and supplemental complaint.

13. By its decision of July 27, 1963, the Holy Assembly of Bishops removed the defendant Dionisije as bishop of the Middle Western American Diocese for the United States of America and Canada. A true and correct translated copy of that decision is attached to this complaint as "Exhibit B" and incorporated herein.

14. By its judgment of March 15, 1964, the Holy Assembly of Bishops divested the defendant Dionisije of his episcopal and monastic ranks. A true and correct translated copy of that decision is attached to this complaint as "Exhibit C" and incorporated herein.

15. The defendant religious corporation and defendant not for profit corporation hold title to various properties, both real and personal, in trust for all members of the diocese.

16. Defendants, and each of them, hereinabove named, have since May 10, 1963, unlawfully controlled and continue unlawfully to control the religious corporation and the not for profit corporation and the properties of these corporations which are held in trust for all members of the diocese.

17. Plaintiff Firmilian Ocokoljich, by virtue of his position as the duly appointed temporary administrator of the diocese and presiding officer of the religious corporation, has on numerous occasions since May 21, 1963 demanded that the defendants, and each of them, hereinabove named, relinquish to plaintiff Firmilian Ocokoljich, as trustee for all members of the diocese, the administrative control of these corporations and their assets, books, and records.

18. Since May 10, 1963, the defendant, Dionisije Milivojevich has, by various statements and conduct, refused to recognize the validity of the decisions of the Holy Assembly of Bishops and Holy Episcopal Synod which are described in paragraphs 11 and 12 of Count I of this second amended and supplemental complaint; and since May 10, 1963, has on frequent occasions refused to recognize the authority of the Holy Assembly of Bishops and Holy Episcopal Synod over himself and over the diocese, and has refused to recognize the trust impressed upon the assets of the diocese, the religious corporation and the not for profit corporation.

19. The other individual defendants have since May 10, 1963 also repeatedly refused to comply with the demand described in paragraph 17 of Count I of this second amended and supplemental complaint.

20. On or about August 6, 1963, and November 12, 1963, and again on or about September 28, 1966, the individual defendants purported to convene Diocesan Lay-Clergy Assemblies at which numerous resolutions were purportedly passed and subsequently implemented. Those Assemblies were convened without warrant in law and the actions taken at those Assemblies have never been approved by the Holy Assembly of Bishops as required by the

Constitutions of the diocese and the Constitution of the Serbian Orthodox Church.

21. By reason of the individual defendants' unlawful control and management of the assets of the diocese, the religious and not for profit corporations, the indicia and external symbols of religious authority, and by reason of the facts alleged in paragraph 20 of this second amended and supplemental complaint, the diocese has suffered and will continue to suffer irreparable damage in that it cannot adequately function as an external organization of members of a hierarchically organized religion and in that its assets are being wasted and are not being used in accordance with the trust which has been impressed upon them; and plaintiff Firmilian Ocokoljich has suffered and will continue to suffer irreparable damage in that he is prevented from fulfilling his duties and exercising his rights as the temporary administrator of a hierarchically organized religious body, all in violation of the United States and Illinois Constitutions and of the Constitutions of the Serbian Orthodox Church and the diocese.

WHEREFORE, plaintiffs respectfully request that this Honorable Court enter an order:

A. Enforcing the decisions of the Holy Assembly of Bishops and Holy Episcopal Synod of the Serbian Orthodox Church insofar as these decisions relate to the management and control of the religious corporation and the not for profit corporation by requiring that the assets and income of those corporations be used in accordance with the trust impressed upon them.

B. Enjoining the defendants from interfering with the decisions of the Holy Assembly of Bishops and Holy Episcopal Synod of the Serbian Orthodox Church insofar as these decisions relate to the management and control of

the diocese, the religious corporation and the not for profit corporation.

C. Requiring the defendants to account for all defendants' acts regarding the diocese, the religious and not for profit corporations since May 10, 1963 and the assets and income thereof.

D. Granting such other relief as equity may require.

COUNT II

In the alternative, plaintiffs The Right Reverend Bishop Firmilian Ocokoljich, The Right Reverend Bishop Gregory Udicki, The Middle Western American Diocese of the Serbian Orthodox Church, The Western American Diocese of the Serbian Orthodox Church, the Middle Eastern American-Canadian Diocese of the Serbian Orthodox Church, complain of the defendants Dionisije Milivojevich, Serbian Orthodox Monastery of St. Sava, an Illinois not for profit corporation, The Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation, Right Reverend Bishop Iriney, Nikola Stepanovich, Svetozar Maravich, Uros Seferovich, Todor Polich, Nikola Sever, Robert Vujovich, Milutin Djordjevich, Nikola Cabraja, Bob Lagather, Milutin Bajcetich, Milan Tomich, Mital Bulatovich, Nikola Kraguljac, Mile Radakovich, Steven Balach, Dragoljub Mitich, and Voja Popovich, as follows:

1. Plaintiff The Right Reverend Bishop Firmilian Ocokoljich (hereinafter sometimes referred to as "Bishop Firmilian") is the duly elected and consecrated bishop of the plaintiff Middle Western American Diocese of the Serbian Orthodox Church and the acting temporary administrator of the plaintiff Middle Eastern American-Canadian Diocese of the Serbian Orthodox Church.

2. Plaintiff The Right Reverend Bishop Gregory Udicki (hereinafter sometimes referred to as "Bishop Gregory") is the duly elected and consecrated bishop of the Western American Diocese of the Serbian Orthodox Church.

3. The three plaintiff dioceses (sometimes hereinafter referred to as "the three new dioceses") are the three dioceses of the Serbian Orthodox Church in the United States of America and Canada.

4. Defendant Dionisije Milivojevich (hereinafter sometimes referred to as "Dionisije") was formerly the bishop of the Serbian Eastern Orthodox Diocese for the United States of America and Canada (hereinafter sometimes referred to as "the old diocese") and is a resident of Lake County, Illinois.

5. The defendant Serbian Eastern Orthodox Diocese for the United States of America and Canada (hereinafter sometimes referred to as "the religious corporation") is a religious corporation duly incorporated in 1935 under Sections 46a-46k of the Illinois Religious Corporations Act (Ill.Rev.Stat. 1965, Chap. 32, para. 176-186).

6-7. Plaintiffs reallege and incorporate herein the allegations contained in paragraphs 6 and 7 of Count I of this second amended and supplemental complaint.

8. The old diocese and the three new dioceses were at all times relevant hereto ecclesiastically and hierarchically subordinate members of the hierarchically structured Serbian Orthodox Church whose principal See is in Belgrade, Yugoslavia.

9-10. Plaintiffs reallege and incorporate herein the allegations contained in paragraphs 9 and 10 of Count I of this second amended and supplemental complaint.

11. By virtue of his position as bishop, defendant Dionisije lawfully controlled the affairs of the old diocese until May 10, 1963.

12. Also by virtue of his position as bishop, Dionisije was, until May 10, 1963, the president of the Board of Trustees of the religious corporation and the supreme head of the not for profit corporation, which holds title to real and personal property in trust for all members of the diocese.

13. On May 10, 1963, Dionisije was suspended from his duties and privileges as bishop and the plaintiff Bishop Firmilian was appointed as temporary administrator of the Serbian Eastern Orthodox Diocese for the United States of America and Canada by the decision of the Holy Episcopal Synod of the Serbian Orthodox Church upon the recommendation of the Holy Assembly of Bishops. A true and correct translated copy of that decision is attached to this complaint as "Exhibit A" and incorporated herein.

14. By a subsequent decision of May 10, 1963, the Holy Assembly of Bishops created the three new dioceses to replace and to succeed in all respects to the status of the old diocese. A true and correct translated copy of that decision is attached to this complaint as "Exhibit D" and incorporated herein.

15. By its decision of May 10, 1963, the Holy Assembly of Bishops appointed the plaintiff Bishop Firmilian as temporary administrator of the plaintiff Middle Western American Diocese; Bishop Stefan Lastavica as temporary administrator of the plaintiff Middle Eastern American-Canadian Diocese; and the plaintiff Bishop Gregory as temporary administrator of the Western American Diocese. A true and correct translated copy of that decision

is attached to this complaint as "Exhibit E" and incorporated herein.

16. Since May 10, 1963, the defendant Dionisije has by various statements and conduct, refused to recognize the validity of the decisions, copies of which are attached to this complaint as Exhibits "A", "B", "C", "D" and "E"; and since May 10, 1963, has on frequent occasions refused to recognize the authority of the Holy Assembly of Bishops and Holy Episcopal Synod over himself and over the diocese and has refused to recognize the trust impressed upon the assets of the diocese, the religious corporation, and the not for profit corporation.

17-18. Plaintiffs reallege and incorporate herein the allegations contained in paragraphs 13 and 14 of Count I of this second amended and supplemental complaint.

19. By its decision of July 27, 1963, the Holy Assembly of Bishops appointed plaintiff Bishop Firmilian bishop of the plaintiff Middle Western American Diocese; plaintiff Bishop Gregory bishop ofthe Western American Diocese; and the late Stefan Lastavica as bishop of the plaintiff Middle Eastern American-Canadian Diocese.

20. Bishop Stefan Lastavica died on May 10, 1966.

21. Since May 10, 1966, Bishop Firmilian has been acting temporary administrator of the plaintiff Middle Eastern American-Canadian Diocese of the Serbian Church.

22. Since May 10, 1963, the defendants have had no authority to act on behalf of the old or any of the three new dioceses or on behalf of the not for profit corporation, or the religious corporation or otherwise in any respect whatsoever.

23. The plaintiff bishops, by virtue of their positions, have from time to time made demands upon the individual defendants to relinquish to plaintiffs the administrative control and management of the corporations in accordance with the rulings and orders of the Holy Assembly of Bishops and of the Holy Episcopal Synod and to turn over to plaintiffs all of the books and records of the corporations.

24. The defendants have repeatedly refused to comply with these demands and have illegally purported to continue to manage the affairs and the property of the three new dioceses and of the religious and not for profit corporations which belong properly and exclusively within the control of the individual plaintiffs as the duly appointed trustees for all members of the diocese.

25. Plaintiffs reallege and incorporate herein the allegations contained in paragraph 20 of Count I of this second amended and supplemental complaint.

26. By reason of the individual defendants' unlawful control and management of the religious and not for profit corporations and of the assets of the plaintiff dioceses, the indicia and external symbols of religious authority and by reason of the facts alleged in paragraph 20 of Count I of this second amended and supplemental complaint, the three new dioceses have suffered and will continue to suffer irreparable damage in that they cannot adequately function as external organizations of members of the aforesaid hierarchically organized church and in that their assets are being wasted and are not being used in accordance with the trust which has been impressed upon them; and the individual plaintiffs have suffered and will continue to suffer irreparable damage in that they are prevented from fulfilling their duties and exercising their rights as bishops of a hierarchically organized religion, all in viola-

tion of the United States and Illinois Constitutions, and of the Constitutions of the Serbian Orthodox Church and the Serbian Eastern Orthodox Diocese for the United States and Canada.

WHEREFORE, plaintiffs respectfully request that this Honorable Court enter an order:

A. Enforcing the decisions of the Holy Assembly of Bishops and Holy Episcopal Synod of the Serbian Orthodox Church insofar as these decisions relate to the management and control of the religious corporation and the not for profit corporation by requiring that the assets and income of those corporations be used in accordance with the trust impressed upon them.

B. Enjoining the defendants from interfering with the decisions of the Holy Assembly of Bishops and Holy Episcopal Synod of the Serbian Orthodox Church insofar as these decisions relate to the management and control of the religious corporation and the not for profit corporation.

C. Requiring the defendants to account for all defendants' acts regarding the religious and not for profit corporations since May 10, 1963, and the assets and income thereof.

D. Granting such other relief as equity may require.

COUNT III

Plaintiffs Very Reverend Dusan Popovich, Very Reverend Dusan Klipa, Very Reverend Vladimir Mrvichin, Emil Drobac, Sam Milanovich and Donald Kral on their own behalf and on behalf of all members of the class which they represent, complain of the defendants Serbian Eastern Orthodox Diocese for the United States of America

and Canada, an Illinois religious corporation, Serbian Orthodox Monastery of St. Sava, an Illinois not for profit corporation, Dionisije Milivojevich, Right Reverend Bishop Iriney, Nikola Stepanovich, Svetozar Marabich, Uros Serferovich, Todor Polich, Nikola Sever, Robert Vujovich, Milutin Djordjevich, Nikola Cabraja, Bob Lagather, Milutin Bajcetich, Milan Tomich, Mitar Bulatovich, Mikela Kraguljac, Mike Radakovich, Steve Balach, Dragoljub Mitich, and Voga Popovich, as follows:

1. Plaintiffs Very Reverend Dusan Popovich, Very Reverend Dusan Klipa, Very Reverend Vladimir Mrvichin, Emil Droback, Sam Milanovich, and Donald Kral are members of the Serbian Eastern Orthodox Diocese for the United States of America and Canada (hereinafter sometimes referred to as "the diocese") who recognize their ecclesiastical and hierarchical allegiance to the Serbian Orthodox Church whose principal See is in Belgrade, Yugoslavia.

2. The total membership of the class described in paragraph 1 of this Count III is approximately 100,000.

3. Plaintiffs can adequately represent all members of the class described in paragraphs 1 and 2 of this Count III.

4. Plaintiffs bring this action on their own behalf and on behalf of all members of the class described in paragraphs 1 and 2 of this Count III.

5. The defendant Serbian Eastern Orthodox Diocese for the United States of America and Canada (sometimes hereinafter referred to as "the religious corporation") is a religious corporation duly incorporated in 1935 under Sections 46a-46k of the Illinois Religious Corporations Act (Ill.Rev.Stat. 1965, chap. 32, pars. 176-186).

6. Defendant Serbian Orthodox Monastery of St. Sava (sometimes hereinafter referred to as "the not for profit corporation") is a general not for profit corporation organized in 1945 and existing under the laws of the State of Illinois and has its principal office in the County of Lake, State of Illinois.

7. Defendant Dionisije Milivojevich (sometimes hereinafter referred to as "Dionisije") was formerly the bishop of the Serbian Eastern Orthodox Diocese for the United States of America and Canada (sometimes hereinafter referred to as "the diocese") and is a resident of the County of Lake, Illinois.

8. By virtue of his position as bishop, Dionisije was, until May 10, 1963, the president of the Board of Trustees of the religious corporation and the supreme head of the not for profit corporation, which holds title to real and personal property in trust for all members of the diocese.

9. Among the assets of the religious and not for profit corporations are the following: a Priests' Pension Fund, established on or about January 1, 1953 to provide pensions for all priests of the diocese and for orphan children and widows of all priests of the diocese; a cemetery located at the Serbian Orthodox Monastery of St. Sava in Libertyville, Illinois; real estate improved with a church on the grounds of the Serbian Orthodox Monastery of St. Sava in Libertyville, Illinois.

10-23. Plaintiffs reallege and incorporate herein the allegations contained in paragraphs 7 through 20 of Count I of this second amended and supplemental complaint.

24. Because of plaintiffs' recognition of their ecclesiastical and hierarchical allegiance and subordination to the Serbian Orthodox Church and to its supreme judicatory,

defendants have, since May 10, 1963, denied to plaintiffs and the members of the class they represent the freedom of religion guaranteed to plaintiffs by the Constitutions of the United States and of the State of Illinois. More specifically, defendants have wrongfully denied to plaintiffs: (a) the right to participate and to share in the Priests' Pension Fund, which was established on or about January 1, 1953 to provide pensions for all priests of the diocese and for orphan children and widows of all priests of the diocese; (b) the right to use the cemetery at the Serbian Orthodox Monastery of St. Sava; and (c) the right to use the church and grounds of the Serbian Orthodox Monastery of St. Sava.

WHEREFORE, plaintiffs respectfully request that this Honorable Court issue an order:

A. Enjoining defendants from interfering with the right of plaintiffs Very Reverend Dusan Popovich, Very Reverend Dusan Klipa, Very Reverend Vladimir Mrvichin, Emil Drobac, Sam Milanovich, and Donald Kral and all other members of the class which they represent, to participate and to share in the Priests' Pension Fund.

B. Enjoining defendants from interfering with the right of plaintiffs Very Reverend Dusan Popovich, Very Reverend Dusan Klipa, Very Reverend Vladimir Mrvichin, Emil Drobac, Sam Milanovich, and Donald Kral and all other members of the class which they represent to use the cemetery of the Serbian Orthodox Monastery of St. Sava.

C. Enjoining defendants from interfering with the right of plaintiffs and of the class which they represent to use the church and grounds of the Serbian Orthodox Monastery of St. Sava.

D. Requiring defendants to account for the properties which are controlled by defendants and which are held in trust for all members of the diocese.

E. Granting such other relief as equity may require.

COUNT IV

As an alternative to Count III, plaintiffs Very Reverend Dusan Popovich, Very Reverend Dusan Klipa, Very Reverend Vladimir Mrvichin, Emil Drobac, Sam Milanovich, and Donald Kral on their own behalf and on behalf of the class which they represent, complain of the defendants, Dionisije Milivojevich, Svetozar Maravich, Uros Seferovich, Vojar Popovich, Nikola Cabraja, Robert Vujnovich, Mike Radakovich, Nikola Stepanovich, The Serbian Eastern Orthodox Diocese for the United States of America and Canada and Serbian Orthodox Monastery of St. Sava as follows:

1. Plaintiff Very Reverend Dusan Popovich and Emil Drobac are members of the Middle Western American Diocese of the Serbian Orthodox Church.

2. Plaintiffs Very Reverend Duran Klipa and Sam Milanovich are members of the Middle Eastern American-Canadian Diocese of the Serbian Orthodox Church.

3. Plaintiffs Very Reverend Vladimir Mrvichin and Donald Kral are members of the Western American Diocese of the Serbian Orthodox Church.

4. The three dioceses of the Serbian Orthodox Church in the United States of America and Canada (sometimes hereinafter referred to as "the three new dioceses") are as follows: The Middle Western American Diocese of the Serbian Orthodox Church, The Western American Diocese of the Serbian Orthodox Church, and The Middle

Eastern American-Canadian Diocese of the Serbian Orthodox Church.

5-7. Plaintiffs reallege and incorporate herein the allegations contained in paragraphs 2 through 4 of Count III of this second amended and supplemental complaint.

8-29. Plaintiffs reallege and incorporate herein the allegations contained in paragraphs 4 through 25 of Count II of this second amended and supplemental complaint.

30-31. Plaintiffs reallege and incorporate herein the allegations contained in paragraphs 9 and 24 of Count III of this second amended and supplemental complaint.

WHEREFORE, plaintiffs respectfully request that this Honorable Court issue an order:

A. Enjoining defendants from interfering with the right of plaintiffs Very Reverend Dusan Popovich, Very Reverend Dusan Klipa, Very Reverend Vladimir Mrvichin, Emil Drobac, Sam Milanovich, and Donald Kral and all other members of the class which they represent to participate and to share in the Priests' Pension Fund.

B. Enjoining defendants from interfering with the right of plaintiffs Very Reverend Dusan Popovich, Very Reverend Dusan Klipa, Very Reverend Vladimir Mrvichin, Emil Drobac, Sam Milanovich, and Donald Kral and all other members of the class which they represent to use the cemetery of the Serbian Orthodox Monastery of St. Sava.

C. Enjoining defendants from interfering with the right of plaintiffs and of the class which they represent to use the church and grounds of the Serbian Orthodox Monastery of St. Sava.

D. Requiring defendants to account for the properties which are controlled by defendants and which are held in trust for all members of the diocese.

E. Granting such other relief as equity may require.

Respectfully submitted,

John J. Crown

One of the attorneys for
Plaintiffs

Of Counsel

Albert E. Jenner, Jr.
John J. Crown
Eugene T. Noonan
Raymond, Mayer, Jenner & Block
135 South LaSalle Street
Chicago, Illinois 60603

Henry D. Fisher
Hall, Meyer, Fisher, Van Deusen,
Holmberg & Snook
25 North County Street
Waukegan, Illinois

Thomas J. Karacic
Katz & Karacic
134 North LaSalle Street
Chicago, Illinois 60602

EXHIBIT A

The Holy Episcopal Synod of the
Serbian Orthodox Church

No. 1664/zap. 188

May 10, 1963

Belgrade

To the Very Reverend
Dr. Firmilian Ocokoljich, Administrator
of the Mid-Western American Diocese
Pittsburgh

The Holy Episcopal Synod, under the above number and date, informed His Grace Bishop Dionisije of the following:

"Your Grace,

The Holy Episcopal Council in its meeting of May 10, 1963, examined the subject of the charges submitted against Your Grace, and concerning the same, under AS No. 20 and 21/zap. 77 of 1963, brought this decision:

"The subject of charges against His Grace The Bishop of America and Canada, Dionisije, is to be submitted to the Holy Episcopal Synod with the recommendation that it take action in accordance with Article 219 and 220, Constitution of the Serbian Orthodox Church, and Section 67 and 90, Code and Regulations for Ecclesiastical Courts of the Serbian Orthodox Church (Penal Code)."

"Relative to this the Holy Episcopal Synod in its meeting under the above number and date, brought this decision:

"Executing the recommendation of the Holy Episcopal Council AS No. 20 and 21 of May 10, 1963, the Holy Epis-

copal Synod on the basis of Section 67 and 90 Code and Regulations for the Ecclesiastical Courts of the Serbian Orthodox Church, orders the commencement of arraignment proceedings against His Grace Bishop Dionisije and in accord with Article 219 and 220 Constitution of the Serbian Orthodox Church suspends him from priestly functions, decreases his remuneration to one half and relieves him from diocesan government till his guilt is conclusively investigated and judged."

We respectfully inform Your Grace of the above and request that you take appropriate steps to relinquish the government of the diocese in your charge to the appointed administrator, the Very Reverend Archimandrite Dr. Firmilian Ocokoljich, your Episcopal Deputy and pastor of the Serbian Orthodox Church in Pittsburgh till your guilt is conclusively investigated and judged."

The above is sent to you for your information.

For the President of the
Holy Episcopal Synod
Member, Bishop of Timok

(Signed) EMILIJAN

EXHIBIT B

THE HOLY BISHOPS' SYNOD OF
THE SERBIAN ORTHODOX CHURCH

No. 2401/zap. 354

July 29th, 1963

Belgrade

Rt. Rev. Archmandrite
FIRMILIAN OCOKOLJICH,
newly elected
Bishop of the Middle-Western
American Diocese
Pittsburgh, Pa.

The Holy Bishops' Council of the Serbian Orthodox Church at its session, under the No. AS 42/zap. 2, of July 27th, 1963, have decided:

"The Holy Bishops' Council of the Serbian Orthodox Church have decided that Bishop Dionisije Milivojevich violated his bishop's oath and lost the conditions for the position of the diocesan bishop, according to Art. 104, paragraphs A and G, of the Constitution of the Serbian Orthodox Church and in accordance of the Art. 111, of the Constitution of the Serbian Orthodox Church has been discharged from his duty as a diocesan bishop, and the Middle-West American Diocese is proclaimed as vacant".

You are informed about above mentioned for acknowledgment.

(Seal) SERBIAN PATRIARCH
+ GERMAN

P.S. The above document is notarized by American Consul at Belgrade, on July 29th, 1963, number: 2788497.

EXHIBIT C

JUDGMENT

OF THE HOLY EPISCOPAL COUNCIL OF THE SERBIAN ORTHODOX CHURCH, WITHIN WHOSE JURISDICTION IT IS TO JUDGE THE OFFENSES OF BISHOP DIONISIJE MILIVOJEVICH, WHO IS INDICTED BY VASILIJE, BISHOP OF ZICA, IN HIS OFFICIAL CAPACITY AS THE PROSECUTOR OF THE SERBIAN ORTHODOX CHURCH

THE FOLLOWING SAT IN JUDGMENT:

GERMAN, Serbian Patriarch, Presiding

MEMBERS:

Damaskin, Metropolitan of Zagreb
Nektarije, Metropolitan of Dabro-Bosnia
Danilo, Metropolitan of Montenegro and the Coastal Region
Emilijan, Bishop of Timok
Jovan, Bishop of Nis
Valerijan, Bishop of Sumadija
Makarije, Bishop of Srem
Nikanor, Bishop of Backa
Vasilije, Bishop of Zica
Hrizostom, Bishop of Branicevo
Visarion, Bishop of Banat
Emilijan, Bishop of Slavonia
Longin, Bishop of Zvornik-Tuzla
Simeo, Bishop of Gornji Karlovac
Vladislav, Bishop of Zahum-Hercegovina
Pavle, Bishop of Ras-Prizren
Andrej, Bishop of Banja Luka
Stefan, Bishop of Dalmatia
Jovan, Bishop of Sabac-Valjevo

I

The prosecutor of the Serbian Orthodox Church, with his indictment of October 16th, 1963, together with a supplement to the indictment, of March 5th, 1964, indicted Bishop Dionisije Milivojevich for the following ecclesiastical-canonical transgressions:

For breaking his episcopal oath and for refusing to submit to the decisions of the highest Church authorities—the Holy Episcopal Council and Synod of the Serbian Orthodox Church;

For his refusal to participate orally and directly in an investigation before the Investigating Committee of the Holy Episcopal Synod, concerning the charges submitted against him;

For officiating in Church ceremonies and for performing the duties of diocesan bishop after having been indicted and suspended from the performance of Church ceremonies, and relieved of the duties of diocesan bishop;

For accepting clerics who had no canonical release, as well as persons who were under suspension from the performance of Church ceremonies, and for entrusting them with parochial duties;

For committing wrong-doings of a material nature and for conducting himself in a manner unbecoming priestly rank and position;

For ordaining and bestowing ecclesiastical ranks of honor on such persons who, according to the canons, do not possess the necessary qualifications for ordination; and

For proclaiming the Serbian Orthodox Diocese of America and Canada fully autonomous and separating it from the mother, Serbian Orthodox Church, at the so-called

"Church National Assembly," held November 13th and 14th, 1963.

For these offenses, the prosecutor for the Serbian Orthodox Church asked that Bishop Dionisije Milivojevich be divested of both his episcopal and monastic ranks.

II

Upon hearing the indictment of the prosecutor for the Serbian Orthodox Church, submitted against Bishop Dionisije Milivojevich, and upon study of all documents related to this criminal case, and upon completion of the presentation of evidence—on the basis of Clause 6 of the II Ecumenical Council; Clauses 14 and 15 of the Antiochian Council; Clause 12 of the Council of Carthage; Articles 7 and 69, Points 27/B and 214a, Points 1, 2, 3, and 6 of the Constitution of the Serbian Orthodox Church and paragraphs 1, 2, 9, and 12 of the Constitution of the Serbian Orthodox Diocese of the United States of America and Canada, the Holy Episcopal Council of the Serbian Orthodox Church, as the judicial organ—

ADJUDGES

Bishop Dionisije Milivojevich of Libertyville, U.S.A., born on July 13/26 at Rabrovac, near Palanka of Smederevo, Yugoslavia; elected bishop on June 9/22, 1938; consecrated August 8/21, 1938; appointed by the decree of the Holy Episcopal Council of the Serbian Orthodox Church, EC No. 218/Min. 81 of December 8th, 1939, as the Bishop of the Serbian Orthodox Diocese of America and Canada, with no previous conviction, be punished *by divestiture of his episcopal and monastic ranks* (Article 216, Points 8 and 10 of the Constitution of the Serbian Orthodox Church),

and be removed from the roll of the hierarchy of the Serbian Orthodox Church, and be returned to the status of layman, under his secular name, Dragoljub Milivojevich, in consequence of his committed offenses:

a. Conduct unbecoming to the clerical rank and position, (42 Apostolic Canon; Constitution of the Serbian Orthodox Church, Article 214, Point 2; Regulations and procedures for the Ecclesiastical Courts of the Serbian Orthodox Church (Criminal Code), Articles 22, 25, and 29).

b. Non-performance, that is to say, negligent performance of official priestly duties and legal ordinances of the superior ecclesiastical authorities, discussion and criticism of their orders and procedures.

(Apostolic Canon 74; Constitution of the Serbian Orthodox Church, Article 214, Points 3 and 6, and Regulations and Procedures for the Ecclesiastical Court of the Serbian Orthodox Church (Criminal Code), Article 30, Points 9, 32, and 38).

and *c. Against the established order of the Church and for schism.*

(Apostolic Canons, 25, 34, 35, and 74; Council of Trulo, 17; Constitution of the Serbian Orthodox Church, Article 214, Point 1; Regulations and Procedures for the Ecclesiastical Court of the Serbian Orthodox Church (Criminal Code), Article 10, 15, 17, 18, and 45).

IX

The Holy Episcopal Synod of the Serbian Orthodox Church, by its Act of the 25th of February, 1964, Syn. No. 357/Min. 78, informed the Holy Episcopal Council of

the Serbian Orthodox Church, that regarding the confirmed gravity of the offenses committed by Bishop Dionisije Milivojevich, it considers itself as having exhausted its authority as provided in Article 70, Point 35, of the Constitution of the Serbian Orthodox Church. Therefore, it brings the entire criminal case of the indicted Bishop Dionisije before the Holy Episcopal Council with the recommendation that the Holy Episcopal Council bring forth a final judgment on it on the basis of Clause 6 of the Second Ecumenical Council; Clauses 14 and 15 of the Council of Antioch; Clause 12 of the Council of Carthage; Articles 7 and 69; Point 27/B of the Constitution of the Serbian Orthodox Church. The proce[illegible]e for judgment of a bishop is not sufficiently explained in our positive Church legislation, and this procedure is sufficiently expounded in the canons of the Orthodox Church cited above.

The Holy Episcopal Council accepted this recommendation of the Holy Episcopal Synod, and on the basis of Clause 6 of the Second Ecumenical Council; Clauses 14 and 15 of the Council of Antioch; Clause 12 of the Council of Carthage, and Articles 7 and 69, Point 27/B of the Constitution of the Serbian Orthodox Church, as the ecclesiastical organ, pronounced the final judgment concerning the offenses of Bishop Dionisije, as stated in the body of the judgment.

X

Being that this judgment was pronounced unanimously by all the members of the Holy Episcopal Council of the Serbian Orthodox Church, therefore, according to the 15th Clause of the Council of Antioch, it is final, and there is no appeal.

FROM THE MEETING OF THE HOLY EPISCOPAL COUNCIL OF THE SERBIAN ORTHODOX CHURCH, on the 15th of March, 1964, in Belgrade, EC No. 1/Min. 38.

SEAL

PRESIDENT
Holy Episcopal Council
SERBIAN PATRIARCH
GERMAN

MEMBERS:

Damaskin, Metropolitan of Zagreb
Nektarije, Metropolitan of Dabro-Bosnia
Danilo, Metropolitan of Montenegro and the Costal Region
Emilijan, Bishop of Timok
Jovan, Bishop of Nis
Valerijan, Bishop of Sumadija
Makarije, Bishop of Srem
Nikanor, Bishop of Backa
Vasilije, Bishop of Zica
Hrizostom, Bishop of Banat
Emilijan, Bishop of Slavonia
Longin, Bishop of Zvornik-Tuzla
Simeon, Bishop of Gornji Karlovac
Vladislav, Bishop of Zahum-Hercegovina
Pavle, Bishop of Ras-Prizren
Andrej, Bishop of Banja Luka
Stefan, Bishop of Dalmatia
Jovan, Bishop of Sabac-Valjevo

EXHIBIT D

The Holy Episcopal Synod of the
Serbian Orthodox Church
No. 1725/zap. 237
May 17, 1963
Belgrade

To The Very Reverend Archimandrite
Dr. Firmilian Ocokoljich, Administrator
of the Mid-Western American Diocese
Pittsburgh

The Holy Episcopal Council of the Serbian Orthodox Church, in its meeting of May 10, 1963, under AS No. 20 and 21/zap. 77 brought this decision:

"On the request of the Church National Convention of the American-Canadian Diocese and the American-Canadian Bishop No. 115 of February 13, 1962 and No. 127 of May 25, 1962 that due to the magnitude and expanse of this Diocese it is necessary to elect more bishops for this ecclesiastical jurisdiction, the Holy Episcopal Council, in accordance with Article 16 Constitution of the Serbian Orthodox Church, establishes in place of the present American-Canadian Diocese three Dioceses, namely:

1. *Middle Western American* Diocese, with its See in the Monastery of St. Sava in Libertyville, upon which His Grace Bishop Dionisije remains further.

2. *Western American* Diocese with its See in Los Angeles, and

3. *Middle Eastern American-Canadian* Diocese with its See in Detroit.

Having formerly obtained the consent of His Holiness The Serbian Patriarch German, South Africa is added to the *Middle-Western American* Diocese, while the parishes in Central and South America are added to the *Western-American* Diocese, which were up to now, in accordance with Article 55, section 12 Constitution of the Serbian Orthodox Church, under the direct jurisdiction of His Holiness the Patriarch.

The border between the Middle-Western American Diocese and the Western-American Diocese will run along the 95th Meridian for the present.

The parishes in Michigan, New York, Pennsylvania and Canada shall belong to the Middle-Eastern American-Canadian Diocese.

As soon as Bishops are appointed to the newly established dioceses other necessary organs and bodies shall be organized.

The final boundaries of the newly-established dioceses, revision of the existing Church Constitution for this territory in conformity with the newly created situation and all other questions relative to the ecclesiastical organization of these dioceses shall be studied by the Church National Convention with the Bishops in charge, and their motions submitted for final decision to the Holy Episcopal Council."

Relative to the decision of the Holy Episcopal Synod under the above number and date, you are hereby notified of the above.

With blessings,

For the President of the
Holy Episcopal Synod
Member, Bishop of Timok
(Signed) EMILIJAN

The Holy Episcopal Synod of the
Serbian Orthodox Church

No. 1726/zap. 238

May 17, 1963

Belgrade

To the Very Reverend Archimandrite
Dr. Firmilian Ocokoljich
Pittsburgh

The Holy Episcopal Synod in its meeting under the above number and date brought this decision:

"Executing the decision of the Holy Episcopal Council AS No. 20 and 21/zap. 77 of May 10, 1963 concerning the founding of new dioceses in the United States of America, and the decision of the Holy Episcopal Synod Sin. No. 1664/zap. 188 of May 10, 1963 concerning the arraignment and suspension from priestly functions and diocesan government of His Grace Bishop Dionisije the Holy Episcopal Synod on the basis of Article 70, section 21 of the Constitution of the Serbian Orthodox Church and Article 13, Constitution of the Serbian Orthodox Diocese in the United States of America and Canada, appoints as temporary administrators:

1. For the Mid-Western American Diocese the Very Reverend Archimandrite Dr. Firmilian Ocokoljich, pastor of the Serbian Orthodox Church in Pittsburgh;

2. For the Western American Diocese the Very Reverend Archimandrite Gregory Udicki, pastor of the Serbian Orthodox Church in Youngwood;

3. For the Mid-Eastern American-Canadian Diocese the Very Reverend Proto-presbyter Stevan Lastavica, pastor of the Serbian Orthodox Church in Windsor, Canada."

You are informed of the above decision of the Holy Episcopal Synod so that you may take notice of the same, and in accordance with said decision relieve His Grace Bishop Dionisije and take charge of the Mid-Western American Diocese till further notice, informing the Holy Episcopal Synod of your action.

For the President of the
Holy Episcopal Synod
Member, Bishop of Sumadija

(Signed) VALERIJAN

IN THE CIRCUIT COURT OF THE
19TH JUDICIAL DISTRICT OF ILLINOIS

(Title Omitted in Printing)

INTERIM OPINION

This cause has been remanded to us as the trial court as a result of an extensive and detailed decision of our Second District Appellate Court reported in 72 Ill. App. 2d 444. In Case Number 63-1644 the Plaintiffs may be referred to as the Bishop of "Dionisije" Group and the Defendants as the "Firmilian" Group; while in Case Number 63-2312 the Plaintiffs will be referred to as the "Firmilian" Group and the Defendants as the "Dionisije" Group. Since the remandment of these cases by the Appellate Court, the Firmilian Group have filed their "Second Amended and Supplemental Complaint" to which the Dionisije Group have filed their "Motion to Dismiss" the

same in its entirety and also specifically as to each of its several and separate four counts.

The Dionisije Group has also filed its separate "Motion to Dismiss" on April 27, 1967 as to 18 individual defendants which said Second Amended and Supplemental Complaint alleges that, upon information and belief, they purport to be members of the Executive Board of the religious corporation, or members of the Board of Directors of the not-for-profit corporation, or purport to act in both capacities. These individuals are named in the preamble to Count I at the top of page 2 of said complaint and commerce with the name Iriney and end with the name Popovich, and the allegation concerning their interest in Count I and in the lawsuit is set forth in Paragraph 7 on page 3 of said complaint. We believe, and so rule, that the two Illinois Corporations so referred to and which are also and will remain as parties to this suit are competent and sufficient defendants and that said 18 defendants shall be dismissed. It is our opinion that all issues raised between the Plaintiffs and said Corporations will be binding upon said 18 defendants now being *dismissed from the case.*

As to *Count I:* The Motion to Dismiss is denied in all other aspects except as above indicated concerning said 18 individual defendants. In our opinion the Plaintiff, "The Serbian Eastern Orthodox Diocese for the United States of America and Canada, a religious body," as a hierarchically organized religious body, does have judicial standing and capacity to use in an equity proceeding. As stated in said Appellate Court decision:

> "[2] It is within the framework of these organizational laws that this dispute must be resolved. The The protection of the law extends to religious associations the same as to other voluntary associations of

benevolent or charitable purposes. The rights of property or other civil rights of such associations are equally under the protection of law, and the actions of their members, subject to its restraints." (Page 455)

"Consequently, it was not our intent to prejudge what might be presented to the trial court on remandment in an orderly and complete hearing of these consolidated cases on their merits. If, upon proper pleadings, competent testimony and other valid evidence, the appellees can present a case which would warrant and justify the trial court—a civil court—in not accepting a pertinent eccesiastical decision or decisions, we do not mean to be understood to preclude them from doing so. Our purpose in remanding the case is to afford all of the litigants a complete and full hearing on the merits pertaining to the many issues and questions involved. The factual background of this case is indeed significant, but it is not without dispute, as is evidenced by the numerous conflicting representations made to the court through extensive pleadings, depositions, affidavits, and briefs." (Pages 464-5)

Consequently, the Motion to Dismiss Count I of said complaint is denied as above indicated.

As to *Count II:* We do not decide the Motion to Dismiss on Defendants' theory of "lack of legal capacity to sue" on the part of the three new Dioceses. We again refer to our Appellate Court decision as follows:

> "From the views we have expressed herein, the Serbian Orthodox Church has authority to make the ecclesiastical decisions relative to the removal and ap-

pointment of a Bishop for the Serbian Eastern Orthodox Diocese for the United States of America and Canada, as well as the appointment of a temporary administrator. It exceeded its authority, however, and infringed upon the authority of the Diocese when it purported to change the geographical structure of the Diocese and eliminate its reserved administrative powers, including the control over Church properties, subject to the trust imposed thereon, by dissolving the Diocese and creating three new Dioceses." (Page 462)

"This is all quite true and, as pointed out in the opinion, the Serbian Orthodox Church exceeded its authority in these respects. It was without authority to disband the American-Canadian Diocese, and it follows that the purported appointments of temporary administrators and Bishops of these supposedly new Dioceses were without validity." (Page 463)

In our opinion, from a careful reading of the decision of our Appellate Court above referred to, these three newly created Dioceses have no interest in this litigation and should be stricken as parties-plaintiff therefrom. They are: The Middle Western American Diocese of the Serbian Orthodox Church, The Western American Diocese of the Serbian Orthodox Church, The Middle Eastern American-Canadian Diocese of the Serbian Orthodox Church. Consequently, in our view, Count II should be and is stricken in its entirety and the Motion to Dismiss to that extent is granted.

As to *Count III:* It is our opinion that the Motion to Dismiss should be denied and therefore Count III will stand. We believe that upon trial of the case, the Court will soon discover if the charges made in Count III have any merit or are merely "moot" as claimed by the defendants.

As to *Count IV:* It is our decision that this Count is vulnerable to the Motion to Dismiss for the same reasons as we have above expressed concerning Count II; and therefore, the motion is granted and Count IV is stricken.

We suggest that Counsel for Defendants (the Dionisije Group) draft a suitable order in conformity with this opinion, granting leave to them to plead within a reasonable time.

DATED: August 29, A.D. 1967

L. Eric Carey
Judge

IN THE CIRCUIT COURT OF THE
19TH JUDICIAL DISTRICT OF ILLINOIS

(Title Omitted in Printing)

ORDER

Filed Sept. 11, 1967

This cause coming on for further hearing on the Court's Interim Opinion Re: Motion to Dismiss Second Amended and Supplemental Complaint, the Court Finds as follows:

1. The Motion filed April 27, 1967 by 18 individual Defendants to dismiss the Second Amended and Supplemental Complaint filed February 27, 1967, should be allowed.

It is, therefore, ordered that as to Right Reverend Bishop Iriney, Nikola Stepanovich, Svetozar Maravich, Uros Seferovich, Todor Polich, Nikola Sever, Robert Vujovich, Milutin Djordjevich, Nikola Cabraja, Bob Lagather, Milutin Bajcetich, Milan Tomich, Mitar Bulatovich, Nikola Kraguljac, Mike Radakovich, Steve Balach, Dragoljub Mitich and Voja Popovich, the Second Amended and Supplemental Complaint, filed February 27, 1967, is Dismissed.

2. The Serbian Eastern Orthodox Diocese for the United States of America and Canada, a religious body, as a hierarchically organized religious body, has judicial standing and capacity to sue in an equity proceeding, and, therefore, the Motion to Dismiss Count I of the Second Amended and Supplemental Complaint filed herein on February 27, 1967 should be denied.

It is, therefore, Ordered that the Motion of Right Reverend Bishop Dionisije Milivojevich, The Serbian Orthodox Monastery of St. Sava, an Illinois not-for-profit corporation, and The Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation, to dismiss Count I of the Second Amended and Supplemental Complaint be and the same is hereby Denied.

3. The three newly-created Dioceses have no interest in this litigation; they should be stricken as parties-Plaintiff, and Count II should be stricken.

It Is, Therefore, Ordered that the Middle Western American Diocese of the Serbian Orthodox Church, the Western American Diocese of the Serbian Orthodox Church, and the Middle Eastern American-Canadian Diocese of the Serbian Orthodox Church have no interest in this litigation and they are hereby stricken as parties-Plaintiff to the Second Amended and Supplemental Complaint.

4. The Motion to Dismiss Count III should be denied.

It Is, Therefore, Ordered that the Motion to Dismiss Count III of the Second Amended and Supplemental Complaint be and it is hereby Denied.

5. The three newly-created Dioceses have no interest in this litigation; they should be stricken as parties-Plaintiff, and Count IV should be stricken.

It Is, Therefore, Ordered that the Middle Western American Diocese of the Serbian Orthodox Church, the Western American Diocese of the Serbian Orthodox Church, and the Middle Eastern American-Canadian Diocese of the Serbian Orthodox Church have no interest in this litigation and they are hereby stricken as parties-Plaintiff to the Second Amended and Supplemental Complaint.

It Is Further Ordered Right Reverend Bishop Dionisije Milivojevich, The Serbian Orthodox Monastery of St. Sava, an Illinois not-for-profit corporation, and The Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation, be and they are hereby granted to and including October 31, 1967 in which to plead to Counts I and III of the Second Amended and Supplemental Complaint.

It Is Hereby Further Ordered that the Interim Opinion Re: Motion To Dismiss Second Amended and Supplemental Complaint, delivered by this Court on August 29, A.D., 1967, be filed and made a part of the record in this cause.

Enter this 11th day of September, 1967.

L. Eric Carey
Judge

The above Order is approved as to Form only.

John J. Crown
John J. Crown

Gerald C. Snyder
Gerald C. Snyder

IN THE CIRCUIT COURT OF THE
19TH JUDICIAL DISTRICT OF ILLINOIS

(Title Omitted in Printing)

ANSWER TO SECOND AMENDED AND SUPPLEMENTAL COMPLAINT

Now come Right Reverend Bishop Dionisije Milivojevich, the Serbian Orthodox Monastery of St. Sava, an Illinois not-for-profit corporation, and The Serbian Eastern Orthodox Diocese For The United States of America and Canada, an Illinois religious corporation, pursuant to the Order of September 11, 1967, and without waiving those matters and things set forth in their Motion to Dismiss Counts I and III of the Second Amended and Supplemental Complaint, the Suggestions in Support and the supporting briefs filed with the Court, and specifically reserving the same, answering say:

ANSWER TO COUNT I

1. They deny the allegations alleged and set forth in the first paragraph and demand strict proof of the same.

2. They admit that the Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation, was duly incorporated under the laws of the State of Illinois, and state the fact to be American citizens of Serbian descent, prior to 1900, established an informal association for religious purposes, thereafter became associated with the Russian Orthodox Church, and following the first World War and the takeover of Russia by Communists, and when the Kingdom of Yugoslavia had brought the Serbian people together, formed the Serbian Eastern Orthodox Diocese Council for United States and Canada, an Illinois corporation in 1927, which corporation

was succeeded by the Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation in 1935.

3. They deny the allegations alleged and set forth in paragraph 3, and, on the contrary, state the fact to be that there is no Diocese other than the Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation.

4. They deny the allegations alleged and set forth in the fourth paragraph, and demand strict proof of the same.

5. They admit that Right Reverend Bishop Dionisije Milivojevich resides in the County of Lake and State of Illinois, but deny the other allegations alleged and set forth in the fifth paragraph and demand strict proof of the same, and state that he is the Bishop of the Diocese and the presiding officer of the religious corporation.

6. They admit that The Serbian Orthodox Monastery of St. Sava, an Illinois not-for-profit corporation, was organized in 1945, exists under the laws of the State of Illinois, and has its principal office in the County of Lake, State of Illinois.

7. No answer is made to paragraph 7, as the Court, by its Order of September 11, 1967 dismissed the Second Amended and Supplemental Complaint filed February 27, 1967 as to those persons named in paragraph 7.

8. They deny the allegations alleged and set forth in the eighth paragraph of the Complaint, demand strict proof of the same, and, on the contrary, state that the relationship of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation, to the Serbian Orthodox Church, is contrac-

tually established by the Constitution of the religious corporation, which was approved by the Serbian Orthodox Church, whose principal See is in Belgrade, Yugoslavia.

9, 10, 11, 12, 13 and 14. They deny each, all and every one of the allegations and conclusions alleged and set forth in paragraphs 9, 10, 11, 12, 13 and 14, and demand strict proof of the same.

15. They admit that the Serbian Orthodox Monastery of St. Sava, an Illinois not-for-profit corporation, and The Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation, hold title to various properties, both real and personal, in trust for members and beneficiaries of said two corporations, and deny that the Serbian Orthodox Church, whose principal See is in Belgrade, Yugoslavia, or anyone acting by or through it, has any interest, legal or equitable, in such property.

16. They deny the allegations alleged and set forth in paragraph 16, and demand strict proof of the same.

17. They admit that the Plaintiff Firmilian Ocokoljich has, on numerous occasions since May 21, 1963, demanded the assets, including all cash and bank accounts of the two Illinois corporations, and all books and records of said two corporations, but deny the other allegations and conclusions alleged and set forth in the 17th paragraph, and demand strict proof of the same.

18. They admit that they refused to comply with the unconstitutional, illegal and unwarranted attempt to divide the Diocese into three parts, and to appropriate its bank account, money and assets, but deny that at any time they have failed to recognize the trust impressed upon the assets of the two corporations, deny all other allegations

alleged and set forth in the 18th paragraph of the Complaint, and demand strict proof of the same.

19, 20, 21. No answer is made to paragraphs 19, 20 and 21, as the Court, by its Order of September 11, 1967, dismissed the Second Amended and Supplemental Complaint filed February 27, 1967, as to those persons named in paragraphs 19, 20 and 21.

WHEREFORE, these Defendants say that the Plaintiffs are not entitled to the relief, or any part of the relief, demanded in Count I.

ANSWER TO COUNT III

1, 2, 3, 4. They deny the allegations alleged and set forth in the 1st, 2nd, 3rd and 4th paragraphs, and demand strict proof of the same.

5. They adopt their answer to paragraph 2 of Count I as and for their answer to paragraph 5 of Count III as fully as though the same were set forth hereunder.

6. They adopt their answer to paragraph 6 of Count I as and for their answer to paragraph 6 of Count III as fully as though the same were set forth hereunder.

7. They adopt their answer to paragraph 5 of Count I as and for their answer to paragraph 7 of Count III as fully as though the same were set forth hereunder.

8. They admit that Right Reverend Bishop Dionisije was duly and regularly appointed Bishop of the Diocese, and state the fact to be that his Grammata was received through the King of the Kingdom of Yugoslavia prior to the communistic takeover of that Kingdom; said Grammata was received from the State Church of the Kingdom of

Yugoslavia prior to the communistic domination of that Church; he has at all time and times since his acceptance in 1940 by the governing board of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation been, and now remains, the presiding officer of the religious corporation, and since the incorporation of the not-for-profit corporation, and his acceptance by the Diocesan Council, by the Diocesan Church Court, and by the Diocesan Convention became and now remains the supreme head of the monastery.

9. They admit the allegations alleged and set forth in the 9th paragraph.

10-23. They adopt their answers to the allegations contained in paragraphs 7 through 20 of Count I as and for their answers to paragraphs 10 through 23 of Count III as fully as though the same were set forth hereunder.

24. They deny each, all and every one of the allegations alleged and set forth in paragraph 24, and demand strict proof of the same.

WHEREFORE, they deny that the Plaintiffs are entitled to the relief, or any part of the relief demanded in Count III.

SNYDER, CLARKE, DALZIEL,
HOLMQUIST & JOHNSON
By: *Gerald C. Snyder*

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT, LAKE COUNTY, ILLINOIS

(Title Omitted in Printing)

COUNTERCLAIM

Now comes the Right Reverend Bishop Dionisije Milivojevich, Plaintiff in this Counterclaim, and complains of the Counter Defendant, Firmilian Ocokoljich, as follows:

1. The Counter Plaintiff, the Right Reverend Dionisije Milivojevich, hereinafter referred to as "Bishop Dionisije," is a duly-consecrated and ordained Bishop, having been so decreed by King Paul of the Kingdom of Yugoslavia on August 21, 1938.

2. That in January, 1940, Bishop Dionisije was confirmed as Bishop of the Serbian Eastern Orthodox Diocese for the United States of America and Canada by King Paul of the Kingdom of Yugosalvia.

3. That thereafter, in April, 1940, Bishop Dionisije was received and accepted as a Bishop of the Serbian Eastern Orthodox Diocese for the United States of America and Canada by the Diocesan Board, upon their secret ballot, and he undertook to perform the duties as Diocesan Bishop and President of the Diocesan Council and Diocesan Assembly of the Illinois religious corporation.

4. That thereafter the Kingdom of Yugoslavia was invaded and occupied by the Nazis during World War II.

5. That during this period of occupation, the Serbian Patriarchate was persecuted and imprisoned and the Patriarch was unable to act in any regard or manner.

6. That following World War II, the Communist army of Josef Broza—Tito—established its regime in Yugoslavia, persecuted the clergy and the Patriarchate, imprisoned the

Serbian Eastern Orthodox Church and exercised control and dominance over said church through its agents and Religious Affairs Committee.

7. That during these periods Bishop Dionisije distinguished himself as an anti-Nazi and an anti-Communist, speaking out and working diligently to thwart the ungodly plan of both of these regimes.

8. That upon the Communist overthrow of the Kingdom of Yugoslavia the Communist government compelled the Serbian Orthodox Church to adopt the Constitution of January 31, 1946 of the Serbian Orthodox Church, and in April, 1946, Metropolitan Joseph notified Bishop Dionisije that the Communist Ministery of Foreign Affairs had made charges against Bishop Dionisije because of his opposition to Communism, and the Communists were attempting to exploit the Holy Synod for their political aspirations; that the Serbian Orthodox Church was in a desperate situation; that everything was under strict supervision; and the greatest need was for freedom; all as will appear from the letter from Metropolitan Joseph, a true copy of which is attached hereto, marked "Exhibit A," now specifically referred to and by reference made a part of this Counterclaim.

9. That thereafter, bowing to Communist domination, Serbian Patriarchate Gabriel, in November, 1946, recommended to Bishop Dionisije that he cease and desist from his unrelenting and damaging attacks upon Communists and Communism, and to avoid participation in political disputes and daily political problems, and confine his activities to religious matters, as will more fully appear from the November, 1946 direction received from Serbian Patriarchate Gabriel, a true copy of which is attached hereto, marked "Exhibit B," now specifically referred to and by reference made a part of this Counterclaim.

10. That Bishop Dionisije, in addition to ministering to the religious needs of the members of the Diocese, continued to attack the ungodly actions of the Communists, the domination of the Serbian Orthodox Church, and the loss of religious freedom being suffered by the Clergy and the faithful in Yugoslavia.

11. That thereafter, and in October, 1954, Patriarch Vikentije advised Bishop Dionisije that the Holy Bishops' Council, on May 14, 1948, had requested him to restrain himself from every political action, from mixing in politics, and to limit his actions entirely to church work of the Serbian Orthodox Church, and on June 12, 1954, again recommended that he conduct himself accordingly, as will more fully appear from the letter of directions from Patriarch Vikentije, dated October 12, 1954, a true copy of which is marked "Exhibit C," attached hereto, now specifically referred to and by reference made a part of this Counterclaim.

12. That under Communist domination the Serbian Orthodox Church directed all Bishops outside of Yugoslavia, including Bishop Dionisije, to abstain from any political action and dealing with politics in general, but to limit their work with the clergy only in the sphere of action of the Serbian Eastern Orthodox Church, as will more fully appear from "Exhibit D," now specifically referred to and by reference made a part of this Counterclaim.

13. In December, 1961, Patriarch Gherman again asked Bishop Dionisije to cease promoting the religious freedom of the faithful in Yugoslavia because the church in Yugoslavia would get into difficulty with the Communist government, and Bishop Dionisije, on March 18, 1962, replied that in accordance with the Orthodox Church, supported by the full prayer of St. Sava, he fights against aetheistic-

dialectic materialistic philosophy introduced by Communists in Yugoslavia, all as will more fully appear in the letter of March 18, 1962, a true copy of which is attached hereto as "Exhibit E," now specifically referred to and by reference made a part of this Counterclaim.

14. That the Communist government of Yugoslavia, through its agents and Consuls, undertook to attack and destroy Bishop Dionisije because of his unrelenting and damaging attacks upon the Communist usurpers of Yugoslavia.

15. That in May, 1963, the Communist government of Yugoslavia, through the Patriarchate of the Serbian Eastern Orthodox Church, undertook to divide the Serbian Eastern Orthodox Diocese of the United States of America and Canada into three new Dioceses without authority or sanction in law, and in defiance of the Constitution of the Serbian Eastern Diocese of the United States of America and Canada.

16. That said acts of May 10, 1963, purporting to divide the Serbian Eastern Orthodox Diocese of the United States and Canada into three new Diocese are void and of no legal effect, and have been so adjudicated by Illinois Courts.

17. That there exists in the United States one Diocese —the Serbian Eastern Orthodox Diocese for the United States of America and Canada, a religious corporation— of which the Counter Plaintiff, Bishop Dionisije, is the duly-appointed, accepted and acting Bishop.

18. That the Counter Defendant, Firmilian, has made the following claims and accusations:

A. That he is the Bishop of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, a religious corporation;

B. That he is entitled to the assets, including all cash and bank accounts, of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation, and the Serbian Orthodox Monastery of St. Sava, an Illinois not-for-profit corporation, and all books and records of said two corporations;

C. That the Plaintiff, Bishop Dionisije, has been removed from his episcopal duties and relieved of his monastic orders and has been defrocked.

19. That the Counter Defendant further asserts and claims the foregoing on the basis of illegal, void, fraudulent, collusive, arbitrary and unconscionable action of his principal, the Serbian Patriarchate of Belgrade, Yugoslavia, of which he is an integral part, agent, co-principal and co-conspirator.

20. That the alleged acts of the Serbian Eastern Orthodox Patriarchate of Belgrade, Yugoslavia, purporting to remove Bishop Dionisije as Bishop of the Serbian Eastern Orthodox Diocese of the United States of America and Canada are null, void and of no legal force and effect because no full, fair, judicial hearing was had; Bishop Dionisije was not present or represented at the purported hearing; Bishop Dionisije was denied access to the charges against him and refused information of the person or persons making such charges; and the sole purpose of the fraudulent, collusive and arbitrary proceedings was to terminate the unrelenting and damaging attacks upon the Communist usurpers of Yugoslavia being conducted by Bishop Dionisije.

21. That the alleged acts of the Serbian Eastern Orthodox Patriarchate of Belgrade, Yugoslavia purporting to remove Bishop Dionisije of his episcopal duties and relieve

him of his monastic order and defrock him are null, void and of no legal force and effect because no full, fair judicial hearing was had; Bishop Dionisije was not present or represented at the purported hearings; Bishop Dionisije was denied access to the charges against him and refused information of the person or persons making such charges; and the sole purpose of the fraudulent, collusive and arbitrary proceedings was to terminate the unrelenting and damaging attacks upon the Communist usurpers of Yugoslavia being conducted by Bishop Dionisije, and the proceedings were dominated by the Communist government which controlled the Serbian Orthodox Church in Yugoslavia.

22. That the purported indictment and trial of His Grace, Bishop Dionisije, by the Serbian Patriarchate of Belgrade, Yugoslavia, is of no legal force and effect by reason of the matters and things hereinbefore alleged, and because such proceedings are void and illegal for failure of the said Serbian Patriarchate to apply and follow its own rules and regulations regarding such proceedings, as well as the customs and traditions of the Christian Orthodox Church, and the Canons of the Christian Orthodox Church.

23. The action of the Counter Defendant, Firmilian, his assertions and claims, causes irreparable injury and harm to the Counter Plaintiff, Bishop Dionisije, in that such allegations have held up the Counter Plaintiff to derision and insults, and interfered with the discharge of his duties as President of the Diocesan Council and Diocesan Assembly of the Illinois religious corporation, and without any cause defamed Bishop Dionisije, and such statements and actions are slander.

24. Counter Plaintiff has no adequate remedy at law.

25. A real justiciable controversy exists between the parties.

WHEREFORE, The Counter Plaintiff, the Right Reverend Dionisije Milivojevich, Bishop of the Serbian Eastern Orthodox Diocese of the United States of America and Canada, an Illinois religious corporation, prays that this Court enter a decree as follows:

1. That the Court enter a declaratory judgment that Counter Plaintiff, Bishop Dionisije, is the duly-appointed and acting Bishop of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, pursuant to the Constitution of the said Diocese.

2. That this Court enter a declaratory judgment that the Counter Defendant, Firmilian Ocokoljich, is not entitled to the assets, including all cash and bank accounts of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation, and the Serbian Orthodox Monastery of St. Sava, an Illinois not-for-profit corporation, and all books and records of the said two corporations.

3. That this Court enter a declaratory judgment that the purported removal of Bishop Dionisije's episcopal rank and monastic orders is without validity, force and effect.

4. That this Court issue a permanent injunction restraining the Defendant, Firmilian Ocokoljich from holding himself out to be Bishop of the Serbian Eastern Orthodox Diocese of the United States of America and Canada, an Illinois religious corporation, and from promulgating and publishing any further slander regarding the illegal acts of the Serbian Patriarchate concerning the alleged and purported removal of episcopal duties and monastic rank of the said Bishop Dionisije by the Belgrade Patriarchate.

SNYDER, CLARKE, DALZIEL,
HOLMQUIST & JOHNSON
By: *Gerald C. Snyder*

EXHIBIT A

27/14 of April, 1946
Belgrade

Your Grace

Dear Bishop:

Recently the Holy Synod received through the Ministry of Foreign Affairs here, an accusation against you made by Rev. Gachinovich. Earlier there were others. The Holy Synod acted as it had to and sent this accusation to you for reply through the same office. We are sorry that some people exploit the Holy Synod for their political aspirations and placed us in a position to act on such matters.

We are in a desperate situation. . . . We are constantly praying and hoping in God's help. . . . We are in need of everything. We are impoverished. We do not have anything. We are desperate for many things, mostly for freedom. Everything here is under strict supervision, freedom also.

St. Sava is no longer commemorated or celebrated in the schools.

The communist opposition say to us, "You will pay for this, bearded ones" (since the Bishops do not cut their hair). We answer "You yourselves are to be blamed. We very gladly are paying even with our heads."

Metropolitan Joseph

EXHIBIT B

Holy Bishops' Synod
of the Serbian Orthodox Church
No. 3364/Min. 439
November 12/25, 1946
Belgrade

Your Grace:

In connection with the report of Your Grace from October 14, 1946, sent as an answer to the letter of the Holy Bishops' Synod of September 1/14, 1946, No. 2385/Min. 946, regarding complaints coming from abroad against your political action, the Holy Bishops' Synod has issued the following decision:

"Brotherly recommend to His Grace American-Canadian Bishop Dionisije that, in view of his dignity and position in the Serbian Orthodox Church outside of the homeland, to avoid participation in political disputes and daily political problems, but that his activity be confined to the mission of the Serbian Orthodox Church among the Orthodox Faithful which are living outside of their country."

Brotherly informing Your Grace of the above.

Your Grace's Brother in Christ,
Serbian Patriarch Gabriel

To: His Grace Bishop Dionisije of the Serbian
American and Canadian Diocese Orthodox

EXHIBIT C

The Holy Bishops' Synod
of the Serbian Orthodox Church
No. 1628/Min. 732
October 12, 1954 year
Belgrade—

Your Grace:

By its letter of No. 2033/Min. 503 from 4-VI-1948, the Holy Bishop's Synod sent to you the decision of the Holy Bishop's Council AC No. 26/Min. 10-8-43 from May 14, 1948, by which your Grace has been requested to restrain yourself from every political action and in general from mixing in the politics but that your work with your priests be limited only to the church work of the Serbian Orthodox Church.

In view of the above decision of the Holy Bishop's Synod under the above date and number, we again respectfully ask your Grace and recommend that in your future work to govern yourself along the line of the Holy Council of the Bishops.

Your Grace Brother in Christ
Patriarch Vikentije

His Grace Bishop of the
American-Canadian Diocese
Bishop Dionisije

EXHIBIT D

Ref. No. 2093/Min. 503
May 25/12, 1948, Belgrade

To:
His Grace Bishop American and Canadian
Bishop Dionisije
Libertyville

Your Grace,

Dealing in compliance with the Decision of the Saint Archbishops' Assembly, Ref. No. AC 26/Min. 10 and 43 of 14/1 May, 1948, the Saint Archbishops' Synod is honoured to present to your Grace the true text of the same reading as follows:

"The Holy Archbishops' Assembly, upon considering the Report given to the Saint Archbishops' Assembly by his Grace Bishop of Nis Jovan, in the name of the Delegation of the Saint Archbishops' Assembly who paid a visit to Secretary of State general-major Ljubodrag Djuric, ref. the above number and date, made the following Decision:

"The Holy Archbishops' Assembly has noted the Report so that it is to be given to the Holy Archbishops' Synod for further procedure."

At the same time "to recommend to the Holy Archbishops' Synod kindly to ask the members of the Holy Archbishops' Assembly (the Archbishops) abroad, to abstain from any political action and dealing with politics in general but to limit their work with the clergy only in the sphere of action of the Serbian Eastern Orthodox Church."

Your Grace brother in Christ,
for the President
of the Holy Archbishops' Synod
member, Bishop of Zletovo and
Strumica and administrator of
the Diocese of Srem

EXHIBIT E

THE HOLY BISHOPS' SYNOD
OF THE SERBIAN ORTHODOX CHURCH
Num. 3418/Min. 679
December 22, 1961
BELGRADE

YOUR GRACE,

The Holy Bishop's Assembly of the Serbian Orthodox Church under AS Num. 26/Min. 10 & 43 of May 14, 1948, issued a decision: "Recommend to the Holy Bishops' Synod to ask kindly, the Bishops, members of the Holy Bishops' Assembly, which are abroad, to restrain from every political action and of 'mixing into politics' in general, but to limit their work with clergy, only in framework of the Serbian Orthodox Church."

The Holy Bishop's Synod under its Number 2009/Min. 503 of May 25, 1948, notified Your Grace of this Assembly's decision.

With its letter Number 1628/Min. 732 of October 12, 1954, The Holy Bishop's Synod again kindly asked Your Grace to stay with the above decision of the Holy Bishops' Assembly. In Your answer to the above letter, under the Number 14 of December, 1954, Your Grace said: "This is to confirm receipt of Synod's letter, Number 1628/Min. 732 of October 12th of 1954, with our statement: that we will stick to the contents of the above decision and we will restrain ourselves from every political action and of 'mixing into politics' in general, as well as the clergy of this diocese, but let it be noted: we will keep our action in the

framework of the Serbian Orthodox Church, understanding, in the limits of the holy canons and of the Laws of this country in which our Diocese is organized."

Relative to Your newest clear political action The Holy Bishops' Synod, the third time, is kindly asking Your Grace to stay with the decision of Holy Bishops' Assembly and with Your promise, so that, by Your political action, our church in fatherland would not come in difficulty."

Your Grace in Christ—Brother

President of the Holy
Bishops' Synod
Serbian Patriarch GHERMAN.

IN THE CIRCUIT COURT
OF THE 19TH JUDICIAL DISTRICT OF ILLINOIS

(Title Omitted in Printing)

SECOND INTERIM OPINION RE: (A) MOTION BY DEFENDANTS TO DESIGNATE PARTIES; AND (B) MOTION BY PLAINTIFFS TO STRIKE DEFENDANTS' ANSWER AND COUNTERCLAIM.

A. MOTION BY DEFENDANTS TO DESIGNATE PARTIES:

On February 13, 1968, the Defendants filed the motion above mentioned and on February 23, 1968, the Plaintiffs filed their objections to said motion. The Court rules that in principle the Defendants' motion has practical application to this case and the use of simplified designations or phrases as applied to the various parties will be helpful. In so doing, the Court is not to be considered as ruling in any manner concerning the merits of the case and likewise the parties to this cause, by following this ruling of the Court, will not be considered as conceding in any way a position contrary to their respective pleadings. The Court rules that the following phrases shall be used by Court and Counsel:

1. The Serbian Eastern Orthodox Diocese for the United States of America and Canada, a religious body, shall be referred to as "the religious body in this country."

2. The Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation, shall be referred to as the "Illinois religious corporation."

3. The Middle Western American Diocese of the Serbian Orthodox Church, The Western American Diocese of the Serbian Orthodox Church, and The Middle Eastern American Canadian Diocese of the Serbian Orthodox Church shall be referred to as the "three new dioceses."

4. The Serbian Orthodox Diocese of St. Sava, an Illinois not-for-profit corporation, shall be referred to as the "monastery corporation."

The proposed order concerning the foregoing is for the convenience of Court and Counsel. All concerned will be expected to conform, but it will be understandable should an infrequent and inadvertent lapse occur with reference to the foregoing designations in future documents in this cause.

B. MOTION BY PLAINTIFFS TO STRIKE DEFENDANTS' ANSWER AND COUNTERCLAIM:

On October 31, 1967, the Defendants filed their "Answer to Second Amended and Supplemental Complaint" answering Counts I and III and on page 5 of the same document their "counterclaim." On December 15, 1967, the Plaintiffs filed their motion to strike certain portions of Defendants' said answer and to strike said counterclaim, and attached thereto is a 32-page document entitled "Plaintiffs' Memorandum in Support of Their Motion." On January 31, 1968, the Defendants filed their 21-page "Responsive Memorandum" together with an exhibit attached thereto which responds to said Plaintiffs' Memorandum in support of their Motion. It is upon this state of the pleadings that this portion of the present opinion concerns itself.

The following numbers are the same paragraph numbers referred to in said answer of Defendants filed October 31, 1967:

COUNT I

1. Plaintiffs' motion to strike this paragraph is denied.
2. Plaintiffs' motion to strike a portion of this paragraph to the extent described in their motion is granted so that Paragraph 2 of the Answer will remain only as to the first three lines thereof, ending with the word "Illinois."
3. Plaintiffs' motion to strike this paragraph is denied.
4. Plaintiffs' motion to strike this paragraph is denied.
5. Plaintiffs' motion to strike this paragraph is granted only to the extent of the following words in the fourth line of said paragraph: "The Bishop of the Diocese and" but the remainder of the paragraph shall stand.
6. There is no controversy concerning this paragraph.
7. There is no controversy concerning this paragraph.
8. Plaintiffs' motion to strike this paragraph is denied.
9, 10, 11, 12, 13 & 14. Plaintiffs' motion to strike these paragraphs is granted. However, this is done without prejudice to any claim of the Defendant Dionisije Milivojevich as an officer or participant of either the "Religious Corporation" or the "Monastery Corporation."
15. Plaintiffs' motion to strike this paragraph is denied.
16. There is no controversy concerning this paragraph.
17. There is no controversy concerning this paragraph.

18. Plaintiffs' motion to strike this paragraph is denied.
19. There is no controversy concerning this paragraph.
20. & 21. The Court agrees with the Plaintiffs' motion that the Defendant Dionisije Milivojevich, as a remaining party to the cause, shall answer these paragraphs within a reasonable time.

COUNT III

1, 2, 3, & 4. There is no controversy concerning these paragraphs.
5. Same ruling as to Paragraph 2, Count I.
6. There is no controversy concerning this paragraph.
7. Same ruling as to Paragraph 5 of Count I.
8. The motion of the Plaintiffs is granted and this entire paragraph is stricken. We believe that this action is justified by legal authorities, particularly *Kedroff* v. *St. Nicholas Cathedral,* 344 U.S. 94, 73 S.Ct. 143, 97 L. Ed. 120 and *Kreshik* v. *Saint Nicholas Cathedral* (1960) 363 U.S. 190, 80 S.Ct. 1037.
9. There is no controversy concerning this paragraph.
10-23. Same ruling as to Paragraphs 7 through 20 of Count I.
24. There is no controversy concerning this paragraph.

COUNTERCLAIM

It is the judgment of this Court that the Counterclaim consists almost entirely of charges of Communistic control and activities in Yugoslavia and the effect thereof upon the church in Belgrade, and that this type of allegation di-

rectly or indirectly violates the Kedroff and Kreshik cases of the United States Supreme Court heretofore cited as well as our basic Appellate Court case in 72 Ill. App. 2d 444 (219 N.E. 2d 343). The foregoing criticism specifically applies to Paragraphs 4 through 14, inclusive, of said Counterclaim and the Court rules that the motion to strike those paragraphs is granted. The motion to strike any other portions of the Counterclaim is denied.

An order incorporating the foregoing rulings is requested at an early date.

Dated: June 17, 1968.

L. Eric Carey
Judge

Copies to:
John J. Crown, Esq.
Gerald C. Snyder, Esq.
Thomas J. Karacic, Esq.
Henry D. Fisher, Esq.

IN THE CIRCUIT COURT
OF THE 19TH JUDICIAL DISTRICT OF ILLINOIS
(Title Omitted in Printing)

ORDER

The Court having issued its Second Interim Opinion herein, which Opinion is ordered to be made a part of this record;

It Is Hereby Ordered that the following phrases shall be used by Court and Counsel in all proceedings herein, namely:

1. The Serbian Eastern Orthodox Diocese for the United States of America and Canada, a religious body, shall be referred to as "the religious body in this country."

2. The Serbian Eastern Orthodox Diocese for the United States of American and Canada, an Illinois religious corporation, shall be referred to as the "Illinois religious corporation."

3. The Middle Western American Diocese of the Serbian Orthodox Church, The Western American Diocese of the Serbian Orthodox Church, and The Middle Eastern American Canadian Diocese of the Serbian Orthodox Church shall be referred to as the "three new dioceses."

4. The Serbian Orthodox Monastery of St. Sava, an Illinois not-for-profit corporation, shall be referred to as the "monastery corporation."

It Is Further Ordered that the use of the foregoing phrases shall be without prejudice to the rights of any party hereto, and is solely for the convenience of Court and Counsel;

It Is Further Ordered that Plaintiffs' Motion to strike paragraphs 1, 3, 4, 8, 15 and 18 of Count I of the Answer is denied;

It Is Further Ordered that Plaintiffs' Motion to strike paragraph 2 of Count I of Defendants' Answer is granted except for that portion of paragraph 2 of the Answer which is admitted, i.e., ". . . that The Serbian Eastern Orthodox Diocese For The United States Of America And Canada, an Illinois religious corporation, was duly incorporated under the laws of the State of Illinois";

It Is Further Ordered that Plaintiffs' Motion to strike the words "the Bishop of the Diocese and," which appear in paragraph 5 of Defendants' Answer to Count I is granted, the balance of the paragraph 5 of Defendants' Answer to remain;

It Is Further Ordered that Plaintiffs' Motion to strike paragraphs 9, 10, 11, 12, 13 and 14 of Count I of Defendants' Answer is granted and Defendants are given to and including Monday, July 29, 1968, within which to plead to those paragraphs of Plaintiffs' Complaint.

It Is Further Ordered that Defendant Dionisije Milivojevich answer paragraphs 20 and 21 of Count I of Plaintiffs' Complaint on or before Monday, July 29, 1968;

It Is Further Ordered that Plaintiffs' Motion to strike paragraph 5 of Defendants' Answer to Count III of Plaintiffs' Complaint is granted except for that portion of said Answer which is admitted, i.e., ". . . that The Serbian Eastern Orthodox Diocese For The United States Of America And Canada, an Illinois religious corporation, was duly incorporated under the laws of the State of Illinois";

It Is Further Ordered that Plaintiffs' Motion to strike the words "the Bishop of the Diocese and," which appear in paragraph 7 of Defendants' Answer to Count III of Plaintiffs' Complaint is granted;

It Is Further Ordered that Plaintiffs' Motion to strike paragraphs 11, 18 and 21 of Count III of Defendants' Answer is denied;

It Is Further Ordered that Plaintiffs' Motion to strike paragraphs 8, 12, 13, 14, 15, 16 and 17 of Defendants' Answer to Count III is granted, and Defendants are given to and including Monday, July 29, 1968, within which to plead to those paragraphs;

It Is Further Ordered that Dionisije Milivojevich shall answer paragraph 23 of Count III of Plaintiffs' Complaint on or before Monday, July 29, 1968, and

It Is Further Ordered that Plaintiffs' Motion to strike paragraphs 4 through 14, both inclusive, of Defendants' Counterclaim should be, and hereby is, granted; Plaintiffs' Motion to strike the other portions of Defendants' Counterclaim should be, and hereby is, denied; and Plaintiffs are given to and including Monday, July 29, 1968, within which to answer or otherwise plead to those portions of Defendants' Counterclaim which have not been stricken.

It Is Further Ordered that Plaintiffs' Motion to Reconsider and strike Paragraph 15 and 16 and part of 21 of Defendants' Counterclaim be and the same is hereby denied.

Enter this 24th day of June, 1968.

L. Eric Carey
L. Eric Carey, Judge

IN THE CIRCUIT COURT
OF THE 19TH JUDICIAL DISTRICT OF ILLINOIS

(Title Omitted in Printing)

FUTHER ANSWER TO SECOND AMENDED AND SUPPLEMENTAL COMPLAINT

Now come Right Reverend Bishop Dionisije Milivojevich, The Serbian Orthodox Monastery of St. Sava, an Illinois not-for-profit corporation, and The Serbian Eastern Orthodox Diocese For The United States Of America And Canada, an Illinois religious corporation, pursuant to the Order based upon the second interim Opinion in this cause, and without waiving those matters and things set forth in their Motion to Dismiss Counts I and III of the Second Amended and Supplemental Complaint, the Suggestions in Support and the supporting briefs filed with the Court, and specifically reserving the same, answer as follows:

COUNT I

(Paragraphs 9, 10, 11, 12, 13, 14, 20 & 21)

Paragraph 9. The Defendants admit the allegations of Paragraph 9 and further state that the Holy Assembly of Bishops is only competent "within its jurisdiction" and, answering further, the Defendants state that the Serbian Eastern Orthodox Diocese of the United States of America and Canada, the "Illinois religious corporation," pursuant to its constitution, "enjoys full administrative freedom and accordingly it can independently regulate and rule the activities of its church, school and other diocesan institutions . . . in accordance with the laws of this constitution" (Article 3) and that the Diocesan Assembly "is the main legislative and controlling body of the diocese and represents the entire Orthodox Serbs of the United States of

America and Canada" (Article 15) all as more fully appears from the law of the case as announced by the Appellate Court in its prior decision in this cause on appeal.

Paragraph 10. The Defendants admit that the supreme executive body of the Serbian Orthodox Church acting within its jurisdiction is the Holy Episcopal Synod, and, answering further, state the fact to be that the relationship of the Illinois religious corporation to the Serbian Orthodox Church and Holy Episcopal Synod are regulated by the constitutions, customs and Canons of those two parties.

Paragraph 11. The Defendants, in answer to Paragraph 11 of the Complaint, state as follows:

A. The Defendants deny the existence of "the diocese" now known as "religious body in this country" and demand strict proof thereof, and

B. The Defendants deny that Bishop Dionisije was suspended as Bishop of the American-Canadian Diocese, now known as the "Illinois religious corporation," and

C. The Defendants deny that Exhibit A is a copy of the alleged decision and state the fact to be that Exhibit A appears to be a copy of a letter directed to Firmilian, Administrator of the Mid-Western American Diocese, which copy purports to relate the contents of a letter alleged to have been directed to Bishop Dionisije, and

D. The Defendants deny that Exhibit A is the best evidence of the alleged suspension and affirmatively state, in the alternative, that the alleged suspension was a nullity and a void act in violation of the Constitution, rules and regulations of the Serbian Orthodox Church and the Illinois religious corporation and the result of fraudulent, collusive and arbitrary acts.

Paragraph 12. The Defendants, in answer to Paragraph 12 of the Complaint, state as follows:

A. The Defendants deny that Firmilian was appointed temporary administrator of "the diocese" now known as "the religious body in this country," and

B. The Defendants deny the existence of "the religious body in this country" alleged in Count I of the Complaint, and

C. The Defendants deny that Exhibit A as a true and accurate copy of any decision of the Holy Episcopal Synod, and state that said exhibit purports to be a letter to Firmilian, Administrator of the Mid-Western American Diocese, which copy purports to relate the contents of a letter alleged to have been directed to Bishop Dionisije, and

D. The Defendants believe Firmilian was appointed temporary administrator of the Middle-Western American Diocese, and

E. The Holy Episcopal Synod lacked authority under the Constitution of the Serbian Orthodox Church, or the customs and traditions of the Serbian Orthodox Church, under the Constitution of the Illinois religious corporation, or the Holy Canons of the Orthodox Church to appoint any temporary administrator for the Illinois religious corporation, and

F. The alleged act of appointing Firmilian as temporary administrator of the Illinois religious corporation was a null and void act fraught with fraud, collusion and arbitrariness and in violation of the Constitution and laws of the respective parties as well as the customs, traditions and Canons of the Orthodox Church.

Paragraph 13. The Defendants, in answer to Paragraph 13 of the Complaint, state as follows:

A. The Defendants deny that the Holy Assembly of Bishops legally and validly removed the Defendant, Bishop Dionisije, as Bishop of the Middle-Western American Diocese for the United States of America and Canada as the creation of said Diocese was in excess of the jurisdiction and authority of the Holy Bishops' Council and was a null and void act, and

B. The Defendants deny that Exhibit B is a true and correct copy of the alleged decision and state that Exhibit B purports to be a copy of a letter to Firmilian, newly elected Bishop of the Middle-Western American Diocese, and said Exhibit B is not the best evidence of the decision of the Holy Assembly of Bishops, and

C. The Defendants deny that Bishop Dionisije was ever a Bishop or Administrator of the Middle-Western American Diocese as alleged in the Complaint, and

D. The Defendants state that the alleged and pretended removal was unlawful, null and void; the alleged decision was tainted with fraud, collusion and arbitrariness and was in violation of the laws of the Serbian Orthodox Church, its customs, traditions and the Canons of the Orthodox faith.

Paragraph 14. The Defendants, in answer to Paragraph 14 of the Complaint, state as follows:

A. The Defendants deny the allegation that the Holy Assembly of Bishops legally or lawfully divested Bishop Dionisije of his Episcopal and Monastic rank, and

B. The Defendants lack sufficient knowledge, information or belief to either admit or deny whether or not Exhibit C is a true and correct translation of the alleged decision, and demand strict proof thereof, and

C. The alleged decision is the result of an illegal, void and fraudulent proceeding based upon false and unreliable accusers unknown to Bishop Dionisije, and

D. Bishop Dionisije was denied any hearing and denied elementary fairness and an impartial hearing, and

E. Bishop Dionisije was denied access to copies of the alleged accusations against him and was denied adequate time or an extension of time in which to prepare a reply, and

F. Unauthorized persons or parties were allowed to participate in the deliberations, and

G. The pretended adjudication is based upon charges against Bishop Dionisije which were kept secret from him; the alleged indictment was amended and additional charges were made thereunder, copies of which were never served upon Bishop Dionisije at the time of the alleged proceedings, or thereafter, and

H. The alleged charges known to Bishop Dionisije were vague and indefinite, and

I. The prosecutors participated in the deliberations of the Holy Assembly of Bishops in violation of church law of the Serbian-Orthodox Church, and

J. That testimony and evidence was gathered in secret sessions out of the presence of the accused by parties unknown to Bishop Dionisije, and

K. The Holy Assembly of Bishops lacked jurisdiction as a court of first instance to pass on the alleged accusations, and

L. The alleged proceedings are violative of the Constitution of the Serbian Orthodox Church, the customs and traditions of the Orthodox faith, and the Canon law of the Orthodox faith.

M. That the alleged decision is the result of fraud, collusion and arbitrariness on the part of members of the Serbian Patriarchate, and

N. That the deliberations of members of the Serbian Patriarchate and the Assembly of Holy Bishops were influenced by members of the communist government of the Republic of Yugoslavia, and

O. The pretended adjudication is based upon hearsay, lies, scandalous suppositions and is unsupported by any competent, reliable or probative evidence.

Paragraph 20. Now comes the Defendant, Bishop Dionisije, pursuant to the Order of this Honorable Court and in answer to Paragraph 20 of the Complaint, states as follows:

A. He admits that on the dates therein set forth Church National Assemblies of the Illinois religious corporation, a/k/ Sabors, were convened pursuant to the provisions of the Constitution of the Illinois religious corporation in which the Plaintiff, Firmilian, participated and acquiesced, and

B. He states that such Sabors were called by the Diocesan Plenum and Diocesan Council in the manner prescribed by the Constitution of the Illinois religious corporation, and

C. He denies that said assemblies were convened without warrant in law and denies that the actions taken at these assemblies required any approval of the Holy Assembly of Bishops, and

D. He states that the Supreme Court Authority of the Illinois religious corporation is the Church National As-

sembly, (Sabor), pursuant to the Constition of said diocese, all as more fully appears from the findings of the Appellate Court in this cause on appeal, and

E. He lacks sufficient knowledge, information or belief, to determine which "actions" of these assemblies the plaintiffs complain, and thus is unable to answer further.

Paragraph 21. Now comes the Defendant, Bishop Dionisije, pursuant to the Order of this Honorable Court, and in answer to Paragraph 21 of the Complaint states as follows:

A. He denies that "the diocese," now known as "the religious body in this country" exists independent of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, now known as the "Illinois religious corporation," and

B. Denies that the alleged "religious body in this country" has suffered any irreparable damage as an alleged "external organization of members of a hierarchically organized religion," and

C. Denies that the alleged "religious body in this country" has any interest in the assets of the "Illinois religious corporation," and

D. Denies that any assets of the "Illinois religious corporation" are being wasted and not used in accordance with the trust impressed upon them, and

E. States that said assets are being used in accordance with the Constitution of the said Illinois religious corporation and the Monastery Corporation, and

F. Denies that Firmilian has suffered or will suffer any irreparable damages as temporary administrator of the alleged "the religious body in this country," and

G. States that it is his knowledge, information and belief that the said Firmilian is the alleged temporary administrator and/or alleged bishop of the Middle-Western American Diocese, one of "the three new dioceses," and

H. States that he, Bishop Dionisije, is the lawfully and legally appointed, accepted and acting bishop of the Serbian Eastern Orthodox Diocese of the United States of America and Canada, the "Illinois religious corporation"; that said structure is the only religious diocese and body existing in the United States of America practicing the Serbian Orthodox faith, and that prior to the filing of the Second Supplemental and Amended Complaint the said Bishop Dionisije had never heard of the alleged "religious body in this country" as alleged in that Complaint.

COUNT III

(PARAGRAPHS 8, 12, 13, 14, 15, 16, 17 & 23)

Now come the Defendants, Serbian Eastern Orthodox Diocese For The United States Of America And Canada, the "Illinois religious corporation" and The Serbian Orthodox Monastery Of St. Sava, an Illinois not-for-profit corporation, the "Monastery Corporation" and Bishop Dionisije Milivojevich, pursuant to the Order of this Honorable Court and state as follows:

Paragraph 8. Now comes the Defendant, Bishop Dionisije, and in answer to Paragraph 8 of the Second Amended and Supplemental Complaint, states that he is now the legal and lawful president of the Illinois religious corporation and the supreme head of the monastery corporation pursuant to the terms of the Constitutions of the aforesaid corporations and that he has, at all times mentioned in the Second Amended and Supplemental Complaint, been accepted pursuant to the customs, traditions and rules of the said Corporations, in such capacity and that he has at

no time been lawfully suspended or removed from such position, and said Corporations hold title to real and personal property in trust for all members of the Serbian Eastern Orthodox Diocese of the United States of America and Canada, the "Illinois religious corporation" and not for "the religious body in this country."

Paragraphs 12, 13, 14, 15, 16 & 17. Defendants reallege and adopt their answers to Paragraphs 9, 10, 11, 12, 13 & 14 of Count I as and for their answers to Paragraphs 12, 13, 14, 15, 16 & 17 of Count III as fully as though said paragraphs were herein set forth verbatim.

Paragraph 23. The Defendants reallege and adopt their answers to Paragraph 20 of Count I as and for their answers to Paragraph 23 of Count III as though said paragraph is set out verbatim.

Snyder, Clarke, Dalziel,
Holmquist & Johnson
By *Gerald C. Snyder*
Gerald C. Snyder

(Certificate of Service Omitted in Printing)

IN THE CIRCUIT COURT
OF THE 19TH JUDICIAL DISTRICT OF ILLINOIS

(Title Omitted in Printing)

ANSWER TO COUNTERCLAIM

Now comes counterclaim defendant the Right Reverend Bishop Firmilian Ocokoljich (hereinafter referred to as "Bishop Firmilian") and states for his answer to those portions of the counterclaim which have not been stricken as follows:

1. Bishop Firmilian denies that Dionisije Milivojevich (hereinafter referred to as "Dionisije") is now a duly consecrated and ordained Bishop of the Serbian Eastern Orthodox Church or was ever so decreed by King Paul of the Kingdom of Yugoslavia. Bishop Firmilian admits that Dionisije was duly consecrated as a Bishop of the Serbian Eastern Orthodox Church in 1938.

For further answer, Bishop Firmilian affirmatively avers that Dionisije was duly ordained to the priesthood in the Serbian Eastern Orthodox Church in Yugoslavia and subsequently, i.e., in 1938, Dionisije was consecrated as Bishop of the Serbian Eastern Orthodox Church by the Holy Assembly of Bishops in Belgrade, Yugoslavia.

For further answer Bishop Firmilian affirmatively avers that Dionisije was:

(i) suspended from his duties and privileges as Bishop on May 10, 1963;

(ii) removed from his position as Bishop on July 27, 1963; and

(iii) divested of his episcopal and monastic ranks, i.e., defrocked, on March 15, 1964.

Copies of the orders referred to in subparagraphs (i), (ii) and (iii), above, are attached to the Second Amended and Supplemental Complaint as Exhibits "A", "B" and "C", respectively, and are by reference incorporated herein.

2. Bishop Firmilian denies the allegations, and each of them, contained in paragraph 2.

3. Bishop Firmilian denies that in April of 1940, Dionisije was received and accepted as Bishop of the religious body in this country. Bishop Firmilian admits that from April of 1940 Dionisije did undertake to perform the duties of the Diocesan Bishop of the religious body in this country and as President of the Illinois religious and monastery corporations.

For further answer, Bishop Firmilian affirmatively avers that Dionisije was made Diocesan Bishop of the religious body in this country by the Holy Assembly of Bishops. That action of the Holy Assembly of Bishops appointing Dionisije as Diocesan Bishop of the religious body in this country did not need, nor require, the approval of the lay or ecclesiastical members of the religious body in this country nor of the Illinois religious or monastery corporations.

4-14. These paragraphs, and each of them, have been stricken.

15. Bishop Firmilian denies the allegations, and each of them, contained in paragraph 15.

For further answer Bishop Firmilian affirmatively avers that the three new dioceses were created by duly authorized oredrs of the Holy Assembly of Bishops of the Serbian Eastern Orthodox Church (which church is hereinafter referred to as the "Mother Church").

16. Bishop Firmilian admits that the intermediate appellate court, i.e., the Illinois Appellate Court for the Second District, has ruled that the creation of the three new dioceses was void.

For further answer, Bishop Firmilian affirmatively avers that the three new dioceses were properly created by duly authorized orders of the Holy Assembly of Bishops of the Mother Church.

17. Bishop Firmilian denies the allegations, and each of them, contained in paragraph 17.

For further answer, Bishop Firmilian incorporates herein by reference his answers and affirmative averments pled in paragraph 16 above.

18A. Bishop Firmilian denies that he claims to be Bishop of the Serbian Eastern Orthodox Diocese for the United States of America and Canada.

For further answer, Bishop Firmilian affirmatively avers that he was appointed as the temporary administrator of the religious body in this country by the duly executed order of the Holy Episcopal Synod of the Mother Church dated May 10, 1963, a copy of which order is attached to the Second Amended and Supplemental Complaint as Exhibit "A".

For further answer, Bishop Firmilian affirmatively avers that he has been duly recognized as the temporary administrator for the religious body in this country by the Appellate Court of Illinois for the Second District in its opinions heretofore rendered in this case.

18B. Bishop Firmilian denies the allegations, and each of them, contained in paragraph 18B.

For further answer, Bishop Firmilian affirmatively avers that the church organization in this country consists of the religious body in this country which came into existence long prior to the forming of the Illinois religious corporation and the monastery corporation.

For further answer, Bishop Firmilian affirmatively avers that the religious body in this country owns no property. The religious corporation and the monastery corporation were formed for the purpose of, and do hold property.

For further answer, Bishop Firmilian affirmatively avers that he is entitled to the control and use of the assets of the Illinois religious and monastery corporations by virtue of his ecclesiastical appointment as temporary administrator of the religious body in this country in that when the office of Diocesan Bishop is vacant the temporary administrator of the religious body in this country takes over the functions of the Diocesan Bishop and is, therefore, the presiding president of both the Illinois religious corporation and the monastery corporation.

For further answer, Bishop Firmilian affirmatively avers that the assets of the Illinois religious and monastery corporations are impressed with a trust to be used solely for the benefit of the members of the religious body in this country, as was found by the Appellate Court.

18C. Bishop Firmilian admits the allegations, and each of them, contained in paragraph 18C.

19. Bishop Firmilian denies the allegations, and each of them, contained in paragraph 19.

20-24. Bishop Firmilian denies the allegations, and each of them, contained in paragraphs 20 to 24, both inclusive.

For further answer, Bishop Firmilian affirmatively avers that in its decision the Appellate Court found that the removal of Dionisije's monastic order and his defrocking were ecclesiastical matters with regard to which the secular courts are bound and that Dionisije had, in fact, been removed of his monastic order and defrocked and is, therefore, no longer a Bishop of the Mother Church.

For further answer, Bishop Firmilian affirmatively avers that by virtue of Dionisije's defrocking and removal he is no longer the Diocesan Bishop of the religious body in this country and, therefore, Dionisije is no longer the presiding officer of either the Illinois religious corporation or the monastery corporation.

25. Bishop Firmilian admits that a justiciable controversy exists between the parties.

Wherefore, Bishop Firmilian prays:

1. That the counterclaim be dismissed and discharged for want of equity;

2. That he be discharged and go hence without day; and

3. That he recover his costs reasonably expended in connection with the defense against the counterclaim.

John J. Crown
John J. Crown
One of the attorneys for
plaintiffs

IN THE CIRCUIT COURT
OF THE 19TH JUDICIAL DISTRICT OF ILLINOIS
(Title Omitted in Printing)

REPLY

Now come Plaintiffs, Serbian Eastern Orthodox Diocese for the United States of America and Canada, a religious body, i.e., "the religious body in this country," et al., and state for their reply to Defendants' answer and supplemental answer to the Second Amended and Supplemental Complaint as follows:

9. Plaintiffs deny that the religious body in this country and the Illinois religious corporation are one and the same. Plaintiffs affirmatively aver that the religious body in this country is the so-called diocese for this hemisphere whereas the Illinois religious corporation is a religious corporation created by the diocese pursuant to Ill. Rev. Stat., 1967 c. 32 §§ 164-175.

11(B). Plaintiffs deny that the religious body in this country is an Illinois religious corporation. For further reply, Plaintiffs incorporate herein by reference the allegations, and each of them, contained in paragraph 9 of this reply.

12(A). Plaintiffs deny that the religious body in this country is an Illinois religious corporation. For further reply, plaintiffs incorporate herein by reference the allegations, and each of them, contained in paragraph 9 of this reply.

Respectfully submitted,

Henry D. Fisher
One of the attorneys for
plaintiffs.

IN THE CIRCUIT COURT
OF THE 19TH JUDICIAL DISTRICT OF ILLINOIS
(Title Omitted in Printing)

REPLY TO AFFIRMATIVE DEFENSE

Now come the Defendants, by Snyder, Clarke, Dalziel, Holmquist & Johnson, Leo J. Sullivan, their attorneys and for reply to the affirmative defense state as follows:

1. The Defendants deny the existence of any "religious body" in this country and state that the only act of organization known as the Serbian Eastern Orthodox Diocese for the United States of America and Canada is an organization duly incorporated and acting under the laws of the state of Illinois as a religious corporation. The Defendants deny all allegations of paragraph 1 and demand strict proof thereof.

2. The Defendants deny all allegations of paragraph 2 and state that said allegations are mere conclusions at law which the Court should not consider. Defendants affirmatively state that the constitution of the United States and the constitution of Illinois do not condone. approve and protect fraud and deceit.

Wherefore, Defendants pray:

A. That the Motion for Temporary Injunction be allowed.

B. That the Court grant such other relief as prayed for in the Motion.

Snyder, Clarke, Dalziel,
Holmquist & Johnson

By: *William A. Holmquist*
Attorneys for Defendants

TESTIMONY (ABSTRACTED AND VERBATIM)*

ABSTRACTED TESTIMONY

Page of Record

2 MLADEN MLADENOVICH testified as follows:

Direct Examination.

Having been first duly sworn through an interpreter:

3 I am Mladen Mladenovich a priest of the Serbian Orthodox Church, serving as General Secretary of the Holy Synod. I performed the duties of general secre-
5 tary from 1960 to 1962. Prior to 1960 I was a clerk. I
6 was ordained a priest in 1931 and held the position of
7 assistant priest in the city of Uzize. In 1932, I was ap-
8 pointed a parish priest in Arilje and stayed there until 1939, when I was appointed clerk of the Holy Synod. I took an examination and was appointed Pesar Secretary to the Holy Synod, and assistant secretary.

(Interpreter states that "Pesar" is Junior Clerk.)

11 I was born in Arilje and I attended elementary school, four classes of gymnasium, five classes of theological seminary with examination and theological faculty of Belgrade University. I have a diploma of terminated for theological faculty. I attended seminary
12 school for five years and four years some of the theological college at the University of Belgrade. I received my diploma in 1937. My duties as secretary of the Holy Assembly are handling of the whole archives of the Holy Synod and counsel of Bishops, receiving all mail, preparing agenda for the Holy Synod meetings
13 and attending each meeting of the Holy Synod in taking minutes. After the meeting I work out decisions and give to the clerks the decisions to be typed and I read these at the next meeting of the Holy Synod. The report is then signed by myself, the president who is the Patriarch and the four members of the Synod who are Bishops. If a decision is not correctly recorded I am supposed to give suggestions and corrections. I prepare the minutes of the meetings of the Holy Synod which are then signed by the Patriarch and four Bishops. Incorrect minutes are not signed until they are corrected.

15 The Holy Synod is the executive organ of the Holy Assembly of Bishops and consists of the Patriarch and four bishops. A patriarch is also a bishop. Only mem-
16 bers of the Holy Assembly of Bishops can attend their meetings. Administrative people are sometimes invited to sessions of the Holy Assembly of Bishops to give opinions. These persons will give and answer
17 questions and then will leave the meeting. No one
18 other than the patriarch and bishops can attend the deliverative portions of the Holy Assembly of Bishops.
19 I keep the records of the minutes of the Holy Assembly of Bishops. The Holy Assembly of Bishops
21 elects two secretaries among the bishops in attendance and they take the minutes. After the meeting they come to my office and prepare minutes of their meeting. In the following meeting of the assembly the secretaries read the minutes of the previous meeting and, if they are accepted, the minutes are signed by the Patriarch and all bishops who attended. The minutes are

---

* The abstracted testimony in this Appendix is taken from the Abstract of Record prepared by the present Respondents for use by the Illinois Supreme Court. At various points in this Appendix this abstracted testimony is supplemented with portions of verbatim testimony which was placed before the Illinois Supreme Court in the Supplemental Abstract prepared by the present Petitioners.

corrected if there are some suggestions or corrections and then signed. The minutes are then delivered to me by the two secretaries.

These minutes are preserved by binding in a book. The minutes of the Holy Synod are bound also. These books are kept by me. They are kept under lock and key and I have a key and if I am not there I leave it to the Patriarch. I or the Patriarch have possession of the key. I am familiar with all of the minutes of the Synod and Assembly since the time I became secretary. These bound volumes of minutes do not leave the archives of the Serbian Orthodox Church. Everything that is received in the archives has an official number. The archives consists of official documents, documents of letters to other churches, letters to the bishops, letters from other theological schools governed by the Holy Synod and certain decisions of the Holy Assembly. The minutes of both the Synod and Assembly are part of the archives. Different individuals can write to the Synod or Bishops and the church be notified about this. These writings are made a part of the archives. Financial reports and records are not lodged in the archives at the Holy Synod. I am responsible for these archives. The minutes of the Synod and Assembly are not permitted to leave my possession. Copies are made. The authority of the assembly and the patriarch is required to make copies. I instruct the clerks to make copies. I verify the correctness of the copies with my signature and seal.

I am familiar with Plaintiff's Exhibit 1A which is an excerpt from the minutes of the Holy Synod. It bears my signature and is a true and correct excerpt from the Holy Synod meeting held on May 10, 1963. I am familiar with Plaintiff's Exhibit 2A which was prepared under my supervision. It is a true and correct

excerpt of pages 107 and 108 in the meeting of the Holy Assembly held on May 10, 1963. I certified the document with my signature.

Defendants object to Plaintiff's offer of Exhibits 1A and 1 and 2A and 2 and the Court reserves ruling until the conclusion of cross-examination.

A list of names, Bishop Valerijan, Hrizostom and Fladislav appear at the bottom of Plaintiff's Exhibit 1A. In the original minutes the signatures of these respected bishops appear.

That which follows the number 188 and commencing with the word "minutes" is an exact copy of the minutes in my possession. The material which immediately proceeds the paragraph commencing the same minutes on page 120 is an exact quotation. And that which follows commencing with the words "in the same minutes of page 120" is a statement by me. On Exhibit 2A a quotation mark proceeds the third full paragraph which commences with the words "then his holiness . . ." and there is a quotation mark at the close of the paragraph ending with the words "of the Serbian Orthodox Church". This is an exact excerpt of what appears in the minutes of the meeting of the Holy Assembly of Bishops on March 10, 1963.

The names of various bishops listed on Exhibit 2 are the names of the bishops who signed the minutes. Plaintiff's Exhibits 1, 1A, 2 and 2A appear on the pages of the original which are referred to in the Exhibits. The Serbian Orthodox Church is patriarch and Holy Assembly of Bishops. It is Episcopal and divided into dioceses. By Episcopal I mean there is a diocesan bishop.

The head of the diocese is the diocesan Bishop. There are also a diocesan executive committee, diocesan council and the diocesan Bishop has his special

person as attorney, church prosecutor. The diocese is divided into parishes and church school communities which cover one, five or ten parishes according to geographical territory. The director of the church is the parish priest, and if there is more than one priest, the one appointed by the Bishop as the head of the church community is president of the church
38 community. Also directly under the jurisdiction of the diocesan bishop are monasteries for monks and nuns. Monks perform different duties in the Serbian Church. Really they are in the monasteries, but they also serve as parish priests, professors of theological schools, officers of the Holy Synod, or assistants to
39 a bishop. The bishops assembled in the Holy Assembly constitute a legislative, and executive and supervising authority of the church. Separately, a Bishop does not have all that authority. The Holy Assembly
40 of Bishops is the highest authority in the Serbian
41 Orthodox Church. He uses this authority when as-
42 sembled. The Holy Synod is the executive authority branch of the Holy Assembly of Bishops. The Serbian
43 Church is hierarchical and by that I mean that the hierarchy consists of three grades, episcopal, presby-
46 terian and deacons. In the hierarchical church, the Serbian Orthodox Church, we understand three degrees of hierarchy; bishop, priest and deacon. Among Bishops there are differences in rank; a patriarch, diocesan Bishop, Metropolitan and deacon are also bishops. There are differences in rank and title among priests. An arch-priest with a cross, a special decora-
47 tion cross given by higher authority, is a priest. There is a married priest and a priest of monastic order, a monk. An arch-monk is a monk who has a title which indicates he has a high position. I am an arch priest

48 with a cross. A deacon is the beginning of service in priesthood and the next rank is arch-deacon. This is true of a married deacon but there are those who are in the monastic order, hierdeacon and arch-deacon Dioceses of the church are divided into vicarites.

The word "Sabor" means assembly. Regulation
49 assemblies of the Holy Bishops are held once a year and special sessions held according to the need. Both are convened by the Holy Synod and by the Patriarch Chairman. If the Patriarch is deceased the Holy Synod convenes the assembly of Bishops. The Holy Synod is composed of the patriarch as president and four diocesan Bishops as members. Members of the
50 Holy Synod are elected by the Holy Assembly of Bishops for a period of two years, two members elected each year. I am the custodian of all the minutes of the Holy Synod and Assembly including those covering meetings prior to the time that I became
51 secretary. I have these minutes under my keeping under lock and key and they are available only to me and the patriarch when I am not in Belgrade. PX 3a
53 is familiar to me. The original of PX 3a is in my cus-
54 tody and control. This letter to Bishop Firmilian as administrator was transmitted to Bishop Firmilian,
60 to my knowledge. The true and correct copy of the original letter is in my possession and control as
64 secretary of the Holy Synod. I am familiar with PX 3c a letter addressed to Bishop Firmilian, at that time Archimandrite Firmilian. I know that Exhibit 3c was transmitted to Archimandrite Firmilian. I prepared the letter and gave it to responsible officers
65 to mail. A letter was likewise transmitted to Bishop Dionisije. These letters, one to Archimandrite Firmilian and the other to Bishop Dionisije were pre-

pared maybe one day later than the date on the letters. I do not recall exactly when they were pre-
66 pared. PX 3b and 3c were dated May 10, 1963. It would have been prepared on that day or one day later. Copies of letters mailed outside the patriarchate are retained in my files. I had occasion to refresh my recollection by examining those files before coming to America on this occasion. A letter to Bish-
67 op Dionisije was prepared under my direction on May 10, 1963. At the same time as the letter to Archimandrite Firmilian was prepared. It was mailed at the same time the letter to Archimandrite Firmilian was
72 mailed. PX 3e is a true and correct and exact copy
73 of the letter of May 10, 1963. It was mailed to Bishop Dionisije.

There was an assembly of Bishops meeting in May, 1963, but I can't confirm the date of the commence-
74 ment of the assembly. The meeting commenced prior to May 10, 1963, perhaps two or three days. I recall the sessions of the assembly on May 10, and know that the Holy Assembly also met. I participated in the preparation of the agenda for the meeting of the Holy Assembly and the agenda for the meeting of the Holy
75 Synod on that day. I recollect both agendas. And I know the course of events with respect to the Assembly and the Synod from my own knowledge. At the
76 beginning of the meeting of the Holy Assembly, complaints against the former Bishop Dionisije were taken into consideration as a whole. By complaints I mean those that came to the Holy Synod; those that were brought by the delegation which visited the United States in 1962. Metropolitan Damaskin headed
79 that delegation. Relating the course of events of the sessions of the Assembly I am basing my knowledge

on the preparation of the agenda. After the agenda
80 was prepared it was handed over to the secretaries of the Holy Assembly. The agenda, after the meeting, is recorded in the minutes of the Assembly. The patri-
81 arch reads the agenda to the Assembly and asks if the agenda is accepted. As soon as it is accepted then it enters the minutes as the first item and he proceeds from one item to another until the agenda is covered. The paper on which the agenda is written is de-
90 stroyed. My testimony is based upon knowledge I gained from preparation of the agenda for the Assembly meeting on May 10, 1963. Next considerations of the Assembly of Bishops were the problems of the church in the United States of America and Canada
91 and the problems suggested by Bishop Dionsije. The Assembly meeting took two breaks on May 10. The first recess occurred sometime before noon. At that
99 time the meeting of the Holy Synod convened. I attended the meeting of the Synod and I know what occurred. The Holy Synod was convened to put into effect the decisions of the Holy Assembly. I helped
93 prepare PX 4a, in my capacity as secretary. Quoted
94 material comes from the decisions of the Holy Assembly of Bishops which was recorded in the minutes of the meeting of the Holy Assembly of Bishops held on the date which is on the document. Material quoted
101 in PX 4a is the true and correct excerpt from the minutes of the Holy Assembly meeting on May 10, 1963.
103 The action quoted in PX 4a took place after the first recess. This action started after the meeting of the Holy Synod. Minutes were made of the meeting of the Holy Synod on May 10. PX 1 and 1a are those
104 minutes. There are no other minutes of that meeting other than what is quoted in PX 1a. The Holy Assem-

bly re-convened following the meeting of the Holy Synod.

106 The discipline procedure concerning Bishop Dionisije was done in the morning and not in the afternoon. The subject of the creation of the three dioceses was
107 considered in the afternoon. The material in Exhibit 4 and 4a is a true and correct copy of the minutes reflecting the action of the Holy Assembly of Bishops the afternoon of May 10, 1963. PX 4 and 4a are all
108 of the minutes of the meeting dealing with the creation of the three dioceses. I am familiar with PX 5a
112 and I have compared it with the original minutes.
113 Exhibit 5a, commencing with the quotation preceding the second full paragraph and terminating at the end of the last full paragraph is a true copy of the minutes of the Assembly of Bishops held on May 10, 1963. The seal at the foot of Exhibit 5 is that of the judicial translator at the county court in Belgrade. The stamps are state stamps which are paid as a fee for the verification of documents. Exhibit 5 is the origi-
114 nal and 5a is the English translation. The seal on the document is that of the Holy Synod. The certifi-
115 cation is the signature of the American Council. Exhibit 5 was sent to Archimandrite Firmilian after it
116 was prepared. I am familiar with PX 6 which was sent to the diocesan council from the Holy Synod. The original is among the archives and records of the Serbian Orthodox Church under my supervision. It
117 is a true and correct copy of the original in the ar-
118 chives. This is a copy of the minutes of May 10. I am familiar with PX 7a which is a copy of the original in the archives under my supervision as secretary.
119 I have compared this copy with the original. It was

sent to persons who are concerned in this matter including Archimandrite Firmilian, Arch-priest Stefan Lastivica and Archimandrite Gregory Udicki. Archimandrite Stefan was located in Windsor, Canada, at
120 that time. Gregory was in Youngwood near Pittsburgh. I suppose and think a copy was sent to Bishop Dionisije. The seal of the Holy Synod was at the foot
121 of the PX 7a. The signature is that of Patriarch German. There are copies of this in the official records of the Serbian Orthodox Church in Belgrade.
122 Exhibit 7a is addressed to Mr. Steven Lastivica. Exhibit 7 is addressed to Dr. Firmilian. Each letter was
123 separately addressed but the text of the letter was identical. The letter to Gregory was addressed to
124 him. The letter to Lastivica is addressed to him. (Exhibit 7b in Serbian, dated May 17, 1963, is marked) This document is addressed to Archimandrite Udicki
125 in Youngwood. The copy was mailed to Gregory. I am familiar with the signature and the seal is that of the Holy Synod. (Interpreter establishes that Ex-
129 hibit 7 and 7a are addressed to different people and signed by different persons.) I do not know if all four
130 letters were signed by the same official; we don't make it a difference if they were signed either by the patriarch or some other members of the Holy Synod. The letter 7b is signed by Valerijn, member of the Holy Synod. Patriarch German's signature appears on
131 Exhibit 7a. Number 238 on the Exhibit 7a and 7b means record. The number 1726 is the serial number of the records book of the Holy Synod.

132 The word zap means minutes and the number 238 is the serial number of that document in the minutes of the Holy Synod. The number 1726 does not refer to a page number in the minutes. It refers to a re-

cording in the record book. When a document goes
133 through my hands into the archives of the Synod it
is given a number. In the case of Exhibit 7b it is
134 serial number 1726. The number was placed in the
document after the meeting of the Holy Synod. The
numbers following the serial number refer to proceed-
ings of the Synod or Assembly. PX 7b and 7c are
136 marked. I am familiar with Exhibit 7c; a copy of the
document is in the official records. On page 2 is the
137 signature of Bishop Vilarion and the seal of the Holy
Synod. The original of that document was mailed to
Bishop Dionisije on or about the date it bears. I at-
139 tended the meeting of May 8 to May 17 and have per-
sonal knowledge of what occurred. The decision of
May 10 was to be executed by the appointment of ad-
140 ministrators. I have exhausted my recollection of
what took place on May 17th. PX 7c was authorized
at this meeting. It was prepared under my direction
141 and supervision. It was mailed on May 17 or the next
day to Bishop Dionisije. I noticed the number 1726
followed by an oblique line and the figure 238. The
142 first number is that of the record book and the second
is the serial number of the minutes of the Synod.
143 The abbreviation "ZAP" means minutes and the
numbers on Exhibit 3a have the same significance as
144 I just testified. The lower number of document 3a
indicates that the meeting concerning it took place
earlier than the meeting concerning exhibit 7c. This
145 rule applies to all documents. The lower the number
indicates an earlier point of preparation of a docu-
ment. If the record number is lower it indicates that
the subject was entered in the archives earlier than a
146 higher number. A lower minute number always means
that the subject was discussed prior to a higher min-

147 ute number. The minute number 188 means that the
matter was completed and acted upon before minute
number 237. Document number 1726, PX 7c was com-
148 pleted after 1725. I am familiar with Plaintiffs' Ex-
hibit 8a which I ordered prepared and which I checked
right after receipt. I compared this document with
the original minutes prepared under my supervision
155 and direction. This exhibit is an exact copy of the
157 original. I don't have any particular duty when the
assembly is in session. When the session is over the
secretaries come to my office with notes and request
technical help from me for the composition of the min-
utes. These sessions are held in secret behind closed
159 doors. There are two doors, one of which is locked
and there is a vestibule and at the end of the vesti-
bule is the actual door into the Assembly room. The
160 door is guarded by one of the guards of the Holy
Synod. I am in my office when the Assembly is in
161 session. I can recall only one occasion when a per-
son other than the Bishops of the church were in the
Assembly room during a meeting. A non-Bishop ex-
pert is required to leave the Assembly after fulfilling
the purpose for which he is invited. I was not
in Belgrade at the time of the Assembly meeting
162-3 July 27, 1963. Minutes for that meeting were prepared
and I kept them in my custody and control as secre-
164 tary. I personally examined the minutes to determine
whether the Bishops signed them. I certified the min-
utes.

165 On page 1 of Exhibit 8a is an excerpt from the
report of the commission appointed to investigate
167 Bishop Dionisije. That quotation is correct. I am
familiar with Exhibit 9a, a copy of a document in the
archives under my control. I had nothing to do with

the preparation of 9a. This is a true and correct copy. The signature is that of Patriarch German and the seal is that of the Holy Synod. This is the original. The decision of the Assembly on July 27, 1963, was transmitted to Bishop Dionisije, and Archimandrite Firmilian. Exhibit 10 is an original document with which I am familiar. The signature is that of Patriarch German and it is among the records and archives of the church. The Serbian which appears in Exhibit 10 is a duplicate of that which appears on 10a, down to the signature of Patriarch German. A copy of PX 11a is in the archives and the records of the church. This is a copy of the notice which was sent to Bishop Dionisije. I am familiar with Exhibit 12a. It bears the signature of Patriarch German and there is a certification from the counsel of the United States. This exhibit bears number 2403 and this is the number it receives when it was recorded upon receipt by the Synod. Number system begins with each calendar year. Documents which are sent are not given a received document number. The number 2403 in this document indicates the Holy Assembly sent it to the Synod and it was then given a number. The minutes number is 356 and it refers to the minutes of the Synod. That minute number refers to a group of minutes covering the same meeting. The number refers to a subject which occurred in the meeting. I assign these numbers.

Assembly number 44 on PX 12a refers to the serial number of the record book of the assembly of Bishops. The number 2 refers to the number under which the decision is recorded in the minutes of the Assembly. I am familiar with PX 13a which is a correct copy of a document in the archives. Bishop Firmilian

signed this document. I had occasion to check the minutes of the Holy Assembly of May 11, 1963. The decision referred to in PX 13a is recorded under that number in the minutes. Exhibit 13a in the second full paragraph reflects my mission on that occasion. I came to America on June 28, 1963, and I returned in the beginning of August. I was a technical person to the Bishops whose names are in the document. Their mission was to perform the consecration of Rev. Stefanovich as Bishop and to meet with the former Bishop Dionisije and discuss with him the complaints that were sent against him. I attended the consecration which occurred about July 10, in Aliquippa, Pennsylvania. Bishop Stefanovich is now dead, having died May 10, 1966. 13a was mailed to Archimandrite Gregory Udicki.

I am familiar with PX 14a which bears the signature of Bishop Emilijan and the seal of the Synod. This is a true copy of the document in archives. It was mailed on or about the date it bears.

The two bishops arranged the meeting with Bishop Dionisije and also sent him a letter. They went to a meeting in Libertyville and I was not present. They came back from the meeting and we got together and they brought with them the minutes of that meeting. The meeting was with people who had sent complaints. I was not present at meetings with complaining witnesses. I did not see the complaints in writing. Two Bishops wrote a joint report and Bishop Vasarion went to Belgrade.

The meeting with Bishop Dionisije was arranged through intermediaries, Nick Stepanovich and Uros Seferovich. Mr. Stepanovich is one of the co-counsels for defendants. Bishop Vasarion returned to Belgrade

to submit the report on the difficulties they faced in their meeting with Bishop Dionisije. That member returned to Belgrade before July 27.

193 This Bishop did not come back to Belgrade from the United States and the remaining Bishop returned with me to Belgrade in August. I am acquainted with
195 PX 15A, the original of which is in the archives. Dr. Uros Seferovich was on the diocesan council of the American-Canadian Diocese at that time. The docu-
196 ment was mailed in America to the patriarchate in Bel-
197 grade. Exhibit 16a is the formal indictment of Bish-
199 op Dionisije. The first page of the exhibit refers to Bishop Firmilian of the Middle West Diocese. Copies
201 of the indictment were enclosed with a letter to Bishop Firmilian and I suppose that copies went to the other two Bishops in America. Letters of transmittal to the other two bishops are in our files in Belgrade.
202 The original indictment was transmitted to Bishop
203 Dionisije. There was in fact a letter of transmittal to Bishop Dionisije.

205 PX 18a is signed by me as secretary. I prepared
206 the original at the request of Bishop Firmilian. This
207 document is in brief points the decisions of the Holy Assembly and Holy Synod regarding the problems in the United States. It was prepared on November 12 and transmitted to Bishop Firmilian. I used the
208 minutes of the Holy Assembly and Synod in preparing this document, and it is a true and correct reflection of each of the minutes and documents. Concern-
209 ing the reference in the second full paragraph, paragraph No. 3, I know that Bishop Dionisije was notified
211 by mail. The original of PX 19a was received by the Patriarchate in Belgrade and is among the records of the church. It was received a few days after the date it bears, November 18, 1963.

214 I am familiar with PX 17a which I prepared in my office in Belgrade. The document was actually pre-
215 pared in Milwaukee, Wisconsin, but a copy was delivered in Belgrade. I did not receive the original in Milwaukee; it was handed to me in Belgrade. It was brought to Belgrade by the head of the delegation, Bishop Chrysostom. The members of the Commission who signed the document prepared it; I did not prepare it. At the time it was brought to Belgrade, it had
216 been signed by the two Bishops whose names appear on it. The document was then delivered to the Holy Synod. I do not find a document number of this docu-
217 ment. I do not know what was done with the document when it got to Belgrade because I was not there. I have examined the archives and other records to determine whether this document was transmitted by mail and it was. The document was sent to those to whom it was addressed from Milwaukee. I know that
219 some priests came to Milwaukee and other people came to Milwaukee and this document was given out to them. It was distributed around July 6, 1963.

220 Both investigating commission Bishops were in America at that time. Bishop Chrysostom took the original and copies of this document to Belgrade after it had been distributed from Milwaukee.

Exhibit 18 does not list the events recited in the order in which they took place. I will repeat the events.
221 First on May 10, 1963, the assembly suspended Bishop Dionisije and ordered the Holy Synod to start judicial procedure against him. During the recess from this session, the Synod appointed Archimandrite Firmilian as administrator of the diocese. Later that day, the Assembly created the three new dioceses. Bishop

Dionisije was appointed to the Middle Western Dio-
222 cese. Three administrators were appointed for the three dioceses. The judicial proceedings continued with the request for an investigating commission which was sent to America. After the commission arrived in
223 America and finished its duties, it tried to meet with Bishop Dionisije.

225 The subject matter of paragraph 5 occurred subject to the matters recited in paragraph 4.

228 I am familiar with PX 20a which was typed in the office of the Holy Synod and brought to the meeting of the Synod. It was sent to the former Bishop Dionisije. It was signed by Bishop Firmilian. It was sent to
229 Bishop Dionisije in Libertyville.

230 I am familiar with PX 21a. It was a copy of the
231 original judgment which is in our archives. It was
232 entered on the date which it bears by the Holy Assembly of Bishops. The persons listed on the last page are members of the Assembly of Bishops.

233 I am familiar with PX 22a which was prepared under my supervision on or about the date it bears. It is a copy of the original in our archives. It was signed by
236 Patriarch German. The abbreviation and numbers
237 indicate that the letter was signed by the Patriarch and it was the 44th letter issued in 1964.

MLADENOVICH testified as follows:

Direct Examination.

250 The Bishop was appointed to replace Bishop Stefan. I prepared PX 23a. This Exhibit is signed by the
251 Patriarch and members of the Holy Synod. The Holy
252 Synod executes the decision of the Holy Assembly appointing Bishops. I prepared an excerpt from the
253 minutes of the Assembly of Bishops held August 31,

1921. I also certified that excerpt. In 1921, the Patri-
255 arch was Demetrios. PX 24a bears my signature. The
257 difference between the two calendars referred to in PX 24a is fourteen days.

262 PX 25a is an excerpt of the assembly minutes for August 31, 1921. I prepared the excerpt and my sig-
263 nature is on the Exhibit. The quoted material is an exact copy.

264 PX 26a was prepared by me and bears my signature.
266 The material within the quotation mark is an exact reproduction of the minutes. In the minutes appear
267 the names of several candidates proposed as administrator of the diocese and I consider that it was essential to name only the person who was actually appointed by the Synod.

268 I prepared PX 27a which bears my signature and the seal of the Synod. The quoted material is an exact
269 duplication from the minutes of the Assembly of Bishops held November 23, 1925. I prepared PX 28a which bears my signature and the seal of the Synod. This excerpt is taken from the minutes of the assembly for October 12, 1928. The quoted portion is an exact dupli-
271 cation.

272 I prepared PX 29a and certified it. Quoted portion
273 is an exact copy. On this exhibit the number 14 refers
274 to the registration book and the other number, 77, relates to the number of the minutes. Excerpt 29a deals with the execution of the decision of the Holy Assembly of Bishops. The phrase "Syn" numbered
276 2396 indicates the registration book of the Synod.

280 The reference in PX 30 to the authorization of the Holy Bishops' Assembly is to the same reference numbers as appeared on PX 29a and 28a. The second date
281 number relates to the calendar which is used in Ameri-

ca. With reference to Exhibit 29a the number 1457 indicates the number of minutes of the Holy Synod and the second number 2386 indicates the number in the registry book of the Holy Synod. The number 2396 also indicates the number in the registry book. The difference between 2396 and 2386 could indicate that somebody made a mistake. The numbers on the second page of the constitution, PX 30, are the same that appear in the portion of the minutes, PX 29a.

Exhibit 31a was prepared under my supervision. It bears my signature and seal and it is an excerpt of the meeting of the Holy Assembly in 1939. (The Court permits counsel to call the witnesses' attention to various portions of the Diocesan Constitution, not as a matter of evidence, but solely as a help to the Court.) Article 23 subsection 8 refers to amendments. PX 31a is an excerpt of the minutes. PX 32a bears my signature and the Synod seal. It contains a correct copy of an excerpt of the minutes of December, 1935, a meeting of the Holy Synod. Article 13 of the American-Canadian diocesan constitution provides for an administrator until such time that a regular Bishop is elected to fulfill the vacancy of the office of Bishop.

PX 33a bears my signature and the seal. In the correct copy of a portion of the minutes of the Holy Bishops' Assembly in June 21, 1936. After the death of Bishop Mardary, His Grace Bishop Irinej acted as administrator of the American-Canadian Diocese. Bishop Irinej was appointed administrator by the authority of the Serbian Orthodox Church constitution and the American-Canadian Diocesan Constitution. PX 34a has my signature and the seal of the Synod. It contains an excerpt of minutes from the June 22, 1938, meeting. Paragraph 9 of the Diocesan Constitution gives the assembly the right to appoint the Bishop. PX 35a bears my signature and the seal. It is an excerpt from the Synod meeting, November 25, 1939. I am familiar with PX 36a. It contains a signature of the late Patriarch Grevrilo. The references in Exhibits 36a, 35a and 3a are to the same Bishop Dionisije. Newly elected Bishops are required to write an oath and read it before the Bishops who are consecrating him [sic]. (Defendant's counsel admits the authenticity of the document). 37a is the only oath the Bishop of the Serbian Orthodox Church takes. When the Holy Assembly refers to a Bishop's oath they refer to an oath similar to 37a. (Defense counsel states that during the recess he has examined 37a and 22 lines are undecipherable). (Defense counsel states that he is not stipulating that this is a true and correct copy of the oath).

PX 38a bears my signature and the Synod seal. The quoted material is a portion of the Assembly minutes in 1951. PX 39a bears my signature and my seal. It is an excerpt of certain minutes of the Assembly in 1952. PX 40 is an English translation of PX 40a. My signature appears on 40a. This is an excerpt of the minutes of the meeting of the Assembly held June 1, 1961. The excerpt is accurate. My signature appears on PX 41a. It is an accurate excerpt from the May 16, 1952, Assembly meeting. PX 42a contains my signature and the seal. It is an excerpt from the November 26, 1957, Synod meeting. The quotation from a letter of Bishop Dionisije is accurate. PX 42d is a correct copy of the original. The numbers on it refer to proto call books. My signature appears on PX 43a. This is an excerpt from the Assembly minutes of September 9, 1958. The quoted portion of the Assembly

and Synod minutes are accurate. We reviewed the original of PX 42a, in the archives. This photocopy was made under my supervision. The signature is that of the late patriarch Vikentije. The original of PX 37a is in the archives of the Holy Synod. I was not present at the time of the consecration of Bishop Dionisije. I prepared PX 39c, photocopy of a letter from Bishop Dionisije to Patriarch Vikentije.

Patriarchate is the building which houses the central administration government of the Serbian Orthodox Church. Meetings of the Holy Assembly and Synod are held there. The entire archives are kept in the building in Belgrade. The patriarch, Bishop members of the Synod and all diocesan Bishops have access to the archives, but I obtain the materials for them. Clerks also have access. They use the archives in preparing a report for a meeting, or if it is necessary in connection with a subject that they are dealing with. They request access through me. No other persons, legal entities, state or municipal, have access to the archives.

I prepared PX 40c. It is a copy of an act of Bishop Dionisije dated in the month of May 1951. This document was received by Patriarch Vikentije and it has remained in the archives since its receipt. Exhibit 40c is referred to in the minutes which are exhibit 40a. The Bishop may give his proxy to another Bishop. The constitution provides a limitation on the use of proxy. I prepared PX 41c, a copy of Bishop Dionisije's letter dated April 30, 1952, to Patriarch Vikentike. This document was received in the Patriarchate. It was submitted to the Holy Assembly of Bishops. PX 45a is in part a summary and part a quoted excerpt from the minutes of the meeting of the Holy Assembly. The

reference to an act of Bishop Dionisije on May 5, 1953, is a reference to a document sent to Patriarch Vikentije. PX 45c is the letter sent by Bishop Dionisije. This copy is a correct photocopy. The quoted portions of 45a correctly corresponds [sic] to the minutes of the assembly. The other material is an accurate summary of the portions of the minutes they refer to.

I prepared PX 46a, a document in the archives. The first page is an official decision of the Assembly; the second page is an enclosure which deals with the subject matter on page 1. The reference in 46a indicates that the Assembly did not approve proposal number 5. The enclosure 46a came from a letter from Bishop Dionisije to the Assembly. 46a and 46c, the enclosure, are identical in words. 46c is a photostat of the original. The quoted material in PX 46a comes from the minutes of the assembly. The signature at the foot of 46a is that of Vikentije. I prepared the material preceding the quoted material on 46a. It is an accurate summary. The direction contained in the last paragraph of Exhibit 46a was carried out. This document notes that the American-Canadian Bishop has been cautioned that future decisions will not be approved when they prescribed that they become effective prior to the time that competent authorities approved them. The directive in PX 46a was mailed to Bishop Dionisije.

I prepared PX 47a, an excerpt from the Synod meeting held July 15, 1958. Exhibit 47a contains a transcription of the text contained in 47c. 47c is a letter of Bishop Dionisije dated July 8, 1958, to the Assembly. This contains a proxy. PX 48a is an excerpt from the minutes of the Holy Assembly held June 9, 1959. Exhibit 48c was prepared under my direction.

48c has the signature of Bishop Dionisije and it was received by mail. The document was received with markings as appear on the face of it. Document 48c is referred to in 48a. There may be a mistake in the date on these exhibits. They are exact copies. 48a contains a proxy entrusting Bishop Dionisije's vote to Metropolitan Nektary.

PX 49a was prepared under my supervision and direction. It is a copy of the original. I presume that the longhand notations on this copy were on the original when it was received. (Counsel states that the exhibit's correct date is 19 April, 1960.) Bishop Dionisije signed PX 49a. Plaintiff's Exhibit 46a and 46 have an error. Plaintiff's Exhibit 49a was prepared under my direction. It is an exact copy of excerpts of minutes. PX 50 is contained in PX 50a. I have placed the letter, 50c, first in my certification rather than after the excerpt in order that the decision which appears in the minutes, PX 50a, would probably reflect the subject matter under consideration. The longhand markings on the exhibit have no significance to me.

PX 51a was prepared under my direction. It is a true copy of the original in the archives. It is signed by Bishop Dionisije. The constitution requires diocesan bishops to submit annual reports to the Synod, and this letter is one of those reports. PX 52a was prepared under my direction and is a copy signed by Bishop Dionisije. PX 53a was also prepared under my direction and it is a true and correct copy. PX 53a contains an exact quotation preceding the small letter b which is from the report from Metropolitan Damaskin and Bishop Nikanor. I dictated the other portion of Exhibit 53a to my clerk. PX 54a was prepared under my supervision. 54a is an accurate copy of a

document signed by Bishop Dionisije. The numbers and abbreviations refer to the protocol number of the American-Canadian diocese. Plaintiff's Exhibit 54c was prepared under my direction. There is a reference in 54c to Plaintiff's Exhibit 54a. The quoted portion of 54c is an accurate excerpt from the minutes of the Assembly meeting of May 8, 1963.

Plaintiff's Exhibit 54a contains a proxy for voting by Bishop Dionisije.

Plaintiff's Exhibit 55a was prepared under my control and supervision. It is an accurate photocopy of the original. Plaintiff's Exhibit 55c is a letter from the assembly to the clerk of the faithful in the American Canadian diocese of the Serbian Orthodox Church in the United States of America and Canada and in Diaspora. 55a speaks of 55c. 55c was originally typed and then entered into the minutes of the Assembly. 55c, in typed form, ultimately was printed at the direction of the Patriarch. It was printed to explain what was undertaken and what charges were rendered by the Holy Assembly of Bishops and what measures were taken and penalties given to the former Bishop Dionisije. The Holy Assembly wished to explain why this was done.

The church of Yugoslavia is referred to as Diaspora. These pamphlets were printed under my supervision. Diaspora refers to organized units of the Serbian Orthodox Church which exist in various countries outside of Yugoslavia. There are congregations in Parishes, four or five in England, in Triest, and Western Germany. There are five or six or perhaps more in Australia. I do not know whether or not Diaspora included the American Canadian diocese territory before the diocese was formed. PX 55a and b were

sent to the Bishops in the United States to be distributed among the clergy and faithful.

It is not customary to send copies to the clergy of brother orthodox churches. The Bishops told me they distributed these documents. It was printed in both Serbian and English so people who did not understand their mother tongue entirely could read the contents. The date of Plaintiff's Exhibit 55c, July 27, 1963, is the date which the document was brought before the meeting of the Holy Assembly while the date of 55a, August 10, 1963, refers to the date when the Synod sent the document which was adopted by the assembly. I was in America while this was occurring and I do not recall whether any statement was issued concerning what the assembly had done.

Other information was issued and compiled in Milwaukee. It was signed by the members of the investigation commission. I am 61 years old. PX 56 was prepared under my supervision and direction. PX 56a contains a correct copy of the minutes it reflects. The letter Bishop Dionisije referred to in PX 56a is in the archives of the church. Bishop Dionisije's letter of May 23, 1962, was received by the patriarchate. 56a was prepared under my direction and bears my signature and the seal of the Synod.

PX 57a was prepared under my supervision and control from the originals in the archives. The portion of PX 57a appearing above the word excerpt is a copy of a letter from Bishop Dionisije; the original is in the archives. PX 56a and 57a refer to letters which were signed by Bishop Dionisije. The reference to protocol book is to an official registry book of an organization, in this case the American-Canadian book. This book is kept in the United States. Each

diocese keeps a book. PX 58a was prepared by persons under my control and supervision from the original in the archives. The original was received at the patriarchate following May 25, 1962. It was signed by Bishop Dionisije and this is an exact copy. The parentheses on the exhibit were probably placed there by a clerk. The longhand marks in the exhibits were placed there after it [sic] was received.

PX 59a was prepared under my supervision. It is a true copy of the original signed by Bishop Emilian. This document is a letter directed to Bishop Firmilian informing him of a decision of the Holy Synod. PX 60a was prepared under my control. It is an exact copy of a document addressed to Midwest American Bishop Firmilian.

Plaintiff's Exhibit 61a was prepared by a clerk under my supervision and it was mailed following its date, May 20, 1955. It is signed by Bishop Makarije and it was mailed to Bishop Dionisije. Plaintiff's Exhibit 62a is a copy of an original document in the archives and it is signed by the ecumenical patriarch Athanegoros. Athanegoros is one of the Patriarchs of the orthodox church and is first in honor among all orthodox patriarchs. His attention is particularly devoted to the church of the ecumenical patriarch with its See in Constantinople. PX 62a was received by mail shortly after May 22, 1964. PX 22c was prepared under my supervision. It is an act of the Synod by which a copy of the judgment of the Assembly was sent to Bishop Firmilian. This is a copy and the original is in the archives. This exact copy is signed by Bishop Emilian. The quoted minutes are accurate. The other portions of Exhibit 22 are correct. The relationship between the Exhibit 22a, 22c and 22e is as

follows: 22a is a letter from Patriarch German informing Bishop Firmilian about what the Holy Assembly has decided with regard to Bishop Dionisije. Document 22e is an excerpt from the minutes of the assembly in which the subject matter of the offenses of Bishop Dionisije were decided upon. 22c is a letter from the Synod sending a copy of the judgment to Bishop Firmilian.

PX 63a is a document of the ecumenical patriarch. The original is in the archives. It was received by mail shortly after May 5, 1964. Plaintiff's Exhibit 63b is a true copy. The signature is that of Patriarch Aphenagoras. Plaintiff's Exhibit 64b is a copy of the original in the archives and it bears the registry book mark of Patriarch Athanegoras. 64b was prepared by my clerks and is a true copy. It is signed by Athanegoras and I know the original bears that signature.

PX 65a was prepared under my supervision. The original was received in Belgrade shortly after June 9, 1964. It is a true copy of the original and it is signed by Chrisostomos of Athens, Archibishop of the Greek church in Greece. PX 66a was prepared under my supervision and the original is in the archives. It was received in the second half of July 1964. It came by mail and it is an accurate copy of the original. It is signed by Christophoros, Patriarch of the Church of Alexandria.

PX 67b is an official act of the department for external church affairs of the Moscow Patriarchate of July 13, 1963, sent to the Serbian Patriarch. It was received in the mail shortly after the date it bears. 67b was prepared with my assistance under my supervision and is a copy of the original. It is signed by

Metropolitan Nikodim of the Russian Orthodox church. One of the documents enclosed with 67b is the document identified with number 67f. This document was prepared by the clerk under my control. It is a true copy of the original. The second document enclosed has been marked PX 67c (The English translation is 67a). This document was prepared by a clerk under my supervision and I compared it with the original. The registry book number referred to on this exhibit is that of the American-Canadian diocese in Libertyville and the signature is that of Bishop Dionisije.

The Serbian Orthodox Church has a written constitution adopted in 1931. PX 68a is that printed copy of the 1931 constitution. It was adopted by the Holy Assembly and proclaimed during the reign of King Alexander of Yugoslavia upon the recommendation of the Prime Minister. It was published in the official newspapers, church papers and journals and distributed among the clergy of the church. It was amended in 1947. Plaintiff's Exhibit 68a is the constitution of the Serbian Orthodox Church adopted in 1947, the second edition printed in 1957. There is no difference between the 1947 and the 1957 editions. From '47 to '57 there were some amendments. The document I have before me is the official copy of the constitution. It was distributed by the church to its officials. There have been no subsequent additions. A few amendments have been made to this constitution by the Assembly. The last amendment was in 1967. It was amended in 1962. In 1962 the Assembly temporarily took upon itself the functions recorded by the constitution to the Patriarchal council.

In 1963 it was amended when the Assembly created three dioceses in America. The action I am refer-

ring to is contained in PX 4a. In 1967 the Assembly nullified the articles pertaining to the election of the Patriarch and decided that a new patriarch would be elected only by the Assembly from among its own num-
497 ber. In March of this year the Holy Assembly created a new diocese in Europe called the Serbian Orthodox Diocese for Western Europe and Australia with its See in London. This had the effect of amending the
498 constitution. The creation of the new diocese changed the territory known as Diaspora; new diocese will encompass under its jurisdiction almost all church organizations in Diaspora. The entire Serbian Orthodox Church now is embraced within dioceses. I believe
499 I have told you of all the amendments to the 1957 constitution.

502 This document PX 68B is a 1958 edition of the Constitution of the Serbian Orthodox Church. The
510 first sentence of Article One in the 1931 Constitution is the same as the '57 Constitution and a new sentence has been added to the '57. PX 69A is the Penal Code of the Serbian Orthodox Church. It went into effect in 1961 and has remained in effect, without amend-
516 ment, to the present day. It was adopted by the Holy Assembly and carried out by the Holy Synod. Its original form it was a typewritten document and it is among the records of the church. 69A is an exact
517 copy of the original. Upon the printing of the Penal Code, copies were distributed to members of the clergy. The copies were printed only in Serbian. Copies were distributed to all bishops of the church and all priests. It was published in the official organ of the church. Printed pamphlet copies were also delivered to all members of the clergy.

According to the Constitution of the Serbian Church, the canons of the Orthodox Church are interpreted solely by the Assembly of Bishops. Article 64 and 69.9 of the Constitution so state.

There are 25 dioceses in the Serbian Church. These
520 dioceses change from time to time in territorial area. The needs and interests of the church, the progress of the church and especially in cases where the church is growing influence changes in territorial limits. Changes occur when the number of faithful and congregations become less. There have been occasions when a diocese or dioceses have been completely dissolved. The occasion arises when the Holy Assembly decides that a situation has arisen.

522 Serbian Church was founded in the 9th or 10th centuries and was under the jurisdiction of other churches. Total independence was obtained by about 150 years ago. The historical documents are not in agreement but they all claim that there were about
523 eight or nine dioceses at the time. The word autocephalous means that the head of the church is elected by the bishops of that church and the head does not need confirmation of anyone else; the church can completely govern itself and elect its own hierarchy. The church has to be autocephalous to create dioceses. The number of dioceses existing in 1931 would be listed in
524 that Constitution. The original dioceses that were in existence 750 years ago have been re-organized and obtained different names and designations. None of
525 the original ones exist as a separate or independent diocese. New dioceses were formed between 1931 and 1957. In 1947 the diocese of Belgrade was re-organized
526 and two other dioceses were formed. The diocese of
528 Czech Moravia was released from the jurisdiction of

Serbian Church and allowed and transferred to the jurisdiction of the Patriarch of Moscow, the Russian Orthodox Church. This diocese was located in Czecho-
529 slovakia. Reasons for founding new dioceses are the increase in number of faithful and clergy, the founding of new church units and more effective administration of the church and progress of church in gen-
529 eral. Increase in membership and number of congregations is a factor.

(Offer of proof). The considerations that led to the re-organization of the American-Canadian diocese were the writings of the former Bishop Dionisije who
531 sought this. I have examined the writings to which I have just referred.

I came to this country for the first time in 1963. I
532 formed the opinion that re-organization was necessary.
533 The reports of the Damascan delegation and the writings of Bishop Dionisije indicate that the faithful increased, the clergy increased and the churches and con-
534 gregations increased. I read the report of Bishop Nekkray before he came to America to testify. (Offer of proof closed.)

544 The Court rejects the offer of proof.

546 Statistics and records are kept with respect to number of churches, priests, baptisms, deaths, etc. These are compiled from reports by each diocese and bishop. I participated in the compilation of these statistics. I do not recollect the statistical data respecting the
548 church subsequent to the last war. Churches were damaged during World War II as a result of hostilities. I cannot say exactly how many. About half of
553 the churches damaged or destroyed since World War
554 II have been repaired. About 50 new churches have been built since the war.

One new cathedral was built since World War II.
555 Two temporary cathedrals have been built. Cathedral churches where the bishop resides tend to be larger than churches and more elaborately built.

556 Monasteries are used for monastic purposes. The number of monasteries has increased since the conclusion of World War II. Seminaries in Yugoslavia
557 are theological schools. Students reside and eat there.
558 The number of seminaries has increased since World
559 War II. Some members of the faculty live on the premises of the seminaries. The number of schools and members of the teaching staff have increased since
560 World War II. No seminaries existing at the close of World War II have been enlarged physically. The number of clergy has increased between 500 and 600 priests since the close of World War II. The number of faithful is about stagnant. There are about eight
561 million faithful in Yugoslavia. There were around
562 seven million at the close of World War II.

We have about 2½ thousand priests and monks and
563 600 nuns. We have about 300 persons preparing to become nuns and the number of young men in the monasteries preparing for monkhood, about 150. At the close of World War II there were around 1,500 priests and not even 100 nuns. There were practically
564 no young boys or girls preparing for monk or nun rolls. Church congregation in Yugoslavia has income and expenditures according to its budget. The members give offerings and some income is realized by the way of sale of candles and paying of a stole fee on the part of the faithful for various services, such as baptisms and funerals.

The diocese also has its budget. Income for the diocese comes from the congregations and the monasteries.

565 Diocese also has income from the sale of church publications. There are some dioceses which have some land on which there are orchards or vineyards. There are some dioceses which do not have an adequate income and they are aided by the Patriarchate.

Patriarchate has its budget or income and expenses. It has a central shop, something like a small factory, for the making of candles to satisfy the religious needs of the faithful throughout Yugoslavia. Patriarchate also prints what the [sic] call church taxes; stamps, which are fixed to various church documents, such as baptisms or weddings. Patriarchate also has its own print shop which prints various church liturgical worship books. It also has its own bookstore for the sale of these books. Some dioceses are economically strong enough to send revenue to the Patriarchate.

These sources of revenue are inadequate and this is why the church turned to the state and sought from the state that it give to the church in annual compensation for its properties, buildings, homes and lands that were nationalized. The church receives that compensation from the state. Nationalization was performed upon the churches and also upon private individuals. Compensation is also given to other churches and faiths in Yugoslavia. The creation of the diocese
569 is a hierarchical act. (Discussion between counsel and the Court regarding translation of PX 68A).

584 There are extraordinary income sources which are gifts, chiefly from the American and Canadian Diocese. These are sent either through the Patriarchate to the central church or to the diocesan bishops. The World Council of Churches sends specified gifts which range from $35,000.00 to $50,000.00 annually. These gifts come from various members of the World Council of Churches. One man in Waukegan sent a gift

which built a small monastery. The total amount of such gifts from America and Canada could be esti-
587 mated to be around $50,000.00 a year. Patriarch German was elected first President of the World Council of Churches at the last assembly of the World Council. (DX 70 through 70G are marked, counsel states that they are pamphlets and publications.)

588 70G was prepared in December of 1966. It was dis-
589 tributed among our churches and monasteries for sale to tourists who visit Yugoslavia. A large number were sent to our bishops here in America for distribution among the faithful and priests. A portion were sent to other countries like Australia and England. (The court questions counsel as to the purpose of the Exhibits.)

601 PX 68C-1 was prepared by me personally. (Counsel
602 notes that the translation is PX 68C). It is an official act of the Holy Synod of August 12, 1963 directed to
603 Bishop Stefan. This is an exact copy of the original maintained in the archives. In preparing the original
605 of that document I examined the minutes of the assembly held June 8, 1962. It contains an accurate transcription of the minutes.

609 *Cross Examination.*

610 My clerks prepared PX 39C. 44A and 45C were also prepared by my clerks. We have a xerox machine in
611 the Patriarchate. I am not able to say that I prepared photocopies of minutes of the Holy Assembly of Bishops but only photocopies of the documents that were in my hands.

I recognized PX 1, pages 567 through 573 of the Court file, and I recall preparing the documents set
613 out in those pages.

(The Court notes that page 567 is in English, 568, 9 and 70 are in Serbian, 571 and 572 are in English.)

I prepared pages 568, 569 and 570, which are in Serbian language. I can't say that these were made in the office of the Patriarchate in Belgrade. We could have prepared them on the other machine in the Patriarchate. These pages were made at the request of the church for the need of the Courts.

The Eastern Orthodox Church is also known as the Serbian Orthodox Church. When counsel refers to Serbian Eastern Orthodox Church I understand that he is referring to the Serbian Orthodox Church.

There is no provision in the Constitution of the Serbian Orthodox Church which specifies who may or may not have access to the Archives. I do not remember showing any of the original minutes of the Synod or Assembly to any attorney. Attorneys for the parties in this litigation have visited me in Belgrade in my office. Mr. Jenner, Mr. Crown and Mr. Karacic visited me before my departure, at the end of March 1969. I showed them the case where the files are saved and the key for the case. I opened the case in order for them to look at what was inside. I do not remember that I opened any of the books.

The minutes of the Synod and the Assembly are not printed in the official newspaper with the exception of that which the Assembly or Synod directly order printed. It is the duty of the Synod to execute the order of the Assembly.

A clerk to the Holy Synod prepares the material which is to be printed. It is not submitted to the Synod for approval before printing. The name of the official publication is the Herald Official Sheet of the Serbian

Orthodox Church. There is an official and unofficial portion of the Herald (Gaznick) but it can happen that official matters are printed in the unofficial section. Jovan is the archivist of the Holy Synod; he receives mail and enters them in the registry and gives mail to the responsible clerks or myself. His main duty is to expedite mailing. If someone gives him minutes to show to a bishop he can do that under my supervision.

I have testified regarding this case in Waukegan, Cleveland, Akron, South Bend, Lorain. I was involved in trials in Cleveland, Akron and South Bend. I cannot remember whether transcripts of my testimony or depositions have been shown to me, but I allow the possibility that it was shown to me. Some of my testimony was read to me but I don't know if it was in part or in the whole. I remember that my deposition here in Waukegan was read to me and I did sign it. I do not remember the others, but I do not exclude the possibility that in part they were read to me.

Excerpts of the Synod's minutes identified previously were prepared under my direction and control. The minutes are kept under my control. The pages in the Synod's minute book are assigned page numbers, beginning with number 1 in each book. When the minutes are written, it gets its page written and a continuation of the page where it stopped before. The entries in the Synod's minute book are typewritten except for the signatures of the bishops. This is also true of the Assembly minutes.

The minutes of the meeting are put in the book in chronological order, as the sessions were flowing. The books are permanently bound. This is true of the Assembly minutes also. In 1919 all regional churches

were put together with the Metropolitan of Serbia. These church areas had been under the territories of
633 other states and nations. With the creation of the Kingdom of Yugoslavia after the First World War the church regions that were outside of Serbia were put together with the Serbian Orthodox Church. The
634 Metropolitanate of Montenegro joined with the Metropolitanate of Belgrade. Prior to this union the Metropolitan of Montenegro had self governing authority and was in a state that was called Montenegro. This was the Kingdom of Montenegro, separate from the Kingdom of Serbia but after World War I the Kingdom of Montenegro joined the state of Yugoslavia.
635 I cannot testify on what ground the Kingdom of Serbia and Kroatia and Slavania was created. Part of the territory that formed the Kingdom of Yugoslavia had been under the rule of other countries and kings prior to the First World War.

640 A metropolitan is a person and metropolitanate is a diocese that is under the jurisdiction of that metropolitan.

Of the groups forming joining the Serbian Orthodox Church perhaps there were some dioceses that had independent government of their own and they could have been under the jurisdiction of some other church. The Diocese of Bulgaria was under the jurisdiction of Patriarchate of Constantinople at that time. The first
641 king of the Kingdom of the Serbs, Kroats and Slovens was King Peter.

644 The first written Constitution of the Serbian Orthodox Church was 1931. I did not know when the first Assembly meeting occurred. The Assembly had numerous meetings even before 1931. I know the kingdom's name was changed to Yugoslavia, but I do not remem-

645 ber what year. Prior to 1919 the Serbian Orthodox Churches in the United States were under the jurisdiction of the Russian Metropolitante. As far as I know the organized diocese in the United States, as we understand it today and according to the Constitution of the Serbian Church and the Constitution of the Serbian Church and the Constitution of the Diocese of America and Canada, did not exist prior to 1919. The first Serbian clergyman sent to the United States by the Serbian Orthodox Church was Archimandrite Mar-
646 dary. He was sent shortly after World War I ended.
652 Only the American-Canadian Diocese, of the Dioceses of the Serbian Orthodox Church, has a written Constitution. Dioceses in Yugoslavia do not have Sabors composed of members of the clergy and laymen from each parish. The American-Canadian Diocese does have these church peoples Sabors. The dioceses in
653 Yugoslavia compose their diocese and board pursuant to the directives of the Serbian Church Constitution. These dioceses are enumerated in Article 14 of the Serbian Orthodox Church Constitution. In Yugoslavia
654 the diocesan bishop assigns a priest to a parish. The
655 church congregation owns the church property building in Yugoslavia. The Patriarchate owns buildings in Belgrade and some other property on which there exists small churches or chapels. All churches are the property of the church congregations on whose territory they are located. If the diocese has property that would be a small church on its property. I do
656 not recognize PX 2A for identification. I do not recog-
673 nize PX 2A and I do not recognize the original from which it comes. I am familiar with the delegation sent by the Synod in 1962 composed of Damaskan, Metropolitan of Zagreb and Bishop Backa. Their purpose

was to talk with the former Bishop Dionisije about the proposals made by him to the assembly and Synod
674 for upgrading the diocese to Metropolitanate, enlargement of the area of the diocese, and appointment of two or three more bishops. They were to acquaint him about complaints and charges received in the Holy Synod against his person. I had received such charges for storing in the archives prior to the time that the delegation left. The delegation did not take the complaints or copies with them. The delegation was assigned its task by the Assembly. I did not hear Bishop
686 Dionisije refuse to sign the minutes.

Bishops in the Serbian Orthodox Church are judged as a court of first instance by the Holy Synod. They are judged in the last instance by the Holy Assembly. The Assembly can do what its lowest organ can do. Article 90 of the Penal Code refers to which body shall be the court of first instance and which body shall be the court of last instance and the canons of the Ortho-
688 dox Church also speak of this.

The Holy Assembly governs itself according to the canons of the Orthodox Church, by the regulations of provincial Orthodox Church, and later according to the Constitution which is prescribed in the Penal Code. This is cited in the Constitution. I am familiar with Article 70 subparagraph 35A of the Constitution of the Serbian Orthodox Church. That provides that the Holy Synod shall judge in the first instance canonical offenses of a bishop. But it is the right of the Holy Synod to inform the Assembly when the offense is of a more grievous nature and to seek help from the Assembly.

689 I am familiar with PX 17A which was issued on
691 July 6, 1963. I was not present at any time when the

1963 delegation interrogated or examined witnesses. I was present at Shadeland when a woman was giving a hearing. The Commission heard other witnesses after July 6, 1963. I know that Bishop Chrizostom gave a hearing to special clergyman. Bishop Dionisije did not attend this hearing. I do not know whether
692 Bishop Dionisije was invited to attend any of those sessions. I did not act as secretary to this delegation. I was only accompanying them.

693 The '63 Commission made a report which contained new complaints against Bishop Dionisije. With the exception of the informal indictment prepared by the church prosecutor, Bishop Vasilija, these charges or complaints were not sent to Bishop Dionisije. Bishop
694 Vasarion returned in due course after his stay here.
695 No person was appointed as his representative or attorney at the Assembly meeting of July 27, 1963. This is because there is no provision allowing that in the
698 Penal Code. The archives contain all of the documents referred in the excerpt of the July 27 meeting, PX 8A.
699 The meeting occurred, according to the American calendar, on July 27. A partial report of the investigating commission was submitted to the Assembly before it arrived at its decision. I cannot say whether the entries in these minutes are in the order in which the Assembly considered them since I wasn't there.

702 When a meeting of the Holy Assembly is over the minutes are prepared and they would reflect the order in which business was undertaken. This is not necessarily so; there are exceptions. Something can be put into the minutes beforehand which is of greater importance. It also depends upon the secretaries. What is most important is everything that was decided at the meeting is entered in the minutes. The members

of the Assembly can speak about decisions which are published and announced. Pages 10, 11 and 12 referred to on PX 8A, the July 27, 1963 meeting, refer to Bishop Dionisije and the signatures on the minutes appear at pages 18 and 19. Other decisions were made on the intervening pages and I cannot determine from PX 8A what those decisions were. The actual minutes in the archive would reflect that. The Holy Assembly of Bishops did not hear witnesses on July 27, 1963. Courts of the first instance otherwise provided for in the Serbian Orthodox Church's Constitution hear witnesses. The document prepared in Bishop Dionisije's presence, the minutes formulated in Libertyville, was given him prior to the July 27 meeting. These minutes are in the archives. I read it about five years ago. I believe that document contained Bishop Dionisije's surname and his calling but I cannot remember any other details. I think it was written by hand. I do not recall the details of that document. I do not recall whether the document was sent to him only that he was present when the document was prepared. I was not present at the time this occurred.

PX 14A contains a copy of the decision of the Synod appointing the Commission which reported the Assembly on July 27. The two bishops are Chrizostom and Visarion. The four bishops named in PX 8A are not members of an investigating commission but were bishops chosen by the Assembly to investigate or review the case and documents of Bishop Dionisije which had arrived. All four of these bishops voted on the decision made at the July 27 meeting. I cannot recollect who the bishop members of the Synod were six years ago. I cannot recall whether any of the members of the commission were members of the Synod.

It is not provided anywhere that a vote under Article 111 must be unanimous. I delivered the documents to the church prosecutor to prepare the indictment. Numbers were assigned to these documents as they arrived at the Holy Synod. I do not recall the date the first complaint against Bishop Dionisije arrived but it could have been before I became Supreme Secretary in 1960. Each document could bear a number or date indicating when it was received. I recall several charges in which the person who signed them had written "I give this statement under oath." It is not required by the Constitution or Penal Code that the complaints be under oath. I do not recall which complaints were sworn to and which were not.

I recall that in Milwaukee Bishop Chrizostom received and verified complaints from some clergymen. Some of these were in my presence. These were written complaints. I cannot certify whether oral complaints were written down by the investigation commission. I do not recall whether the investigating commission went to Milwaukee before it went to meet with Bishop Dionisije in Libertyville. I do not recall whether the commission received complaints against Bishop Dionisije before or after July 5, 1963. Some complaints were received in Belgrade after the commission returned to Belgrade. I have examined PX 16a, the indictment. Everything that is cited in the indictment is in the archives of the Synod. I presume that the charges were together with the original indictment. Copies of the enclosures referred to in the indictment were not sent to Bishop Dionisije.

PX 16A was read in its entirety at the meeting of the Assembly and the period of time was extended by the church prosecutor. I do not know of my own

735 recollection whether additional charges were added on November 13 and 14 of 1963 I do not recall whether additional charges were added to the original PX 16A prior to the decision of the Assembly in 1964. The judgment recites whether copies of additional charges were sent to Bishop Dionisije.

739 I did not assist Bishop Vasilija in the preparation of the indictment dated October 16, 1963. As far as I know no members of my staff assisted him. He became a clergyman around 1935. He was elected bishop
740 in 1947. He is the President of the ecclesiastical court of his diocese. I do not recall whether he has ever
741 been a member of the Great Ecclesiastical Court.

I was only present when oral testimony was given by
742 a lady at Shadeland against Bishop Dionisije. I do not recall the details of her testimony. The alleged in-
744 cident is in the indictment on page 9 and it occurred August 12, 1951. I do not recall whether any complaint regarding that incident was made to the Serbian Patri-
745 archate prior to 1963. I do not know whether the charge in the next paragraph by Reverend Glochar referring to incidents in 1941 or 1942 came to the Patriarchate prior to 1963.

I don't think Jovan Dutchich was alive in 1963. I don't know when he died. I cannot from the indictment, page 2, determine when Jovan Dutchich made
746 these remarks. There is a document to that effect in the archives but it is not cited in the indictment in its entirety. It is unknown to me whether Dobroslav Jevdjevich referred to on page 3 of PX 16A was alive or dead in 1963. The enclosures to the indictment contain a copy of the newspaper article which is referred
747 to. I never knew the man and I don't know whether he is alive or dead now.

On page 4 of the indictment there is a reference to a letter written dated August 19, 1963 which complains of an instance which occurred in 1953. I do not know
748 whether the Patriarchate received any complaint regarding this incident of '53 prior to the letter to me in 1963. (Witness turns to page 7 of 16A). I think Dushan Silaksi was not alive in 1963. I don't know whether he died in 1950. I do not recall what docu-
749 ments the commission had with them. I don't know how many years have passed since Dushan Silaski died.

750 I see the reference to Bishop Irinej at the bottom
751 of page 22. No member of the Investigating Commission spoke with Bishop Irinej who died prior to 1963. I find reference to Bishop Nickolai on page 23. The
752 Investigating Commission did not talk with Bishop
753 Nickolai. I do not recall that the person who made this complaint showed the Investigating Commission the alleged note. Bishop Nickolai died about July, 1956. This document does not state that any member of the Investigating Commission spoke with Reverend Sava Mikovich in 1963. I think this man is dead; I never knew him. Copies of newspaper articles were attached to the Indictment as an enclosure for consideration by the Assembly. On page 34, I find a reference
754 to an unsigned pamphlet which was among the material considered by the Assembly. I do not recall
755 whether a copy of the newspaper *Free World,* referred to on page 17 was enclosed with the Indictment. I am not familiar with that newspaper.

756 I do not know whether the enclosure #4 referred to in the next paragraph from the University Educated Theologian designates the time, place and who the priest was that Bishop Dionisije allegedly ordained

when he was married with a divorced wife. This enclosure is in the Archives of the Holy Synod. I cannot tell the name of the priest who Bishop Dionisije allegedly ordained by examining the Indictment. I can-
757 not determine the names of the alleged two other candidates in the following paragraph. The Indictment enclosure is in the Archives. See, that document would
758 require a decision by the Synod. The documents that
759 Mr. Jenner examined me on came from the Archives of the Synod.

760 On Page 19 of Exhibit 16, I find the quotation attributed to Bishop Nickolai. That quotation is contained in a memoran[illegible] of Reverend Popovich. The
761 "P35/5" refers to Page #35.5 on the page. The
762 Commission did not determine the address or location of the houses and lots alleged on Page 19 of the Indictment to have been the property of Bishop Dionisije.

763 It was the duty of the Investigating Commission to talk with the person submitting the charges, to establish if they were the persons who were submitting the charges and on the basis of that to certify the accuracy of the charges as submitted. The duty of the Commission is written in the document by which it
764 was appointed. The Commission did not determine the address or location of the houses and lots allegedly owned by Bishop Dionisije. I do not recall that the Holy Assembly did determine the address or location of these houses or lots. Our Constitution permits a Bishop to have his own private property. Article 38
765 of the Constitution provides that a Bishop's funeral expenses and debts will be paid from his real estate and personal belongings.

767 Exhibit #19 is a photocopy of a document which was prepared at my direction and control from the

original in the Archives of the Serbian Orthodox Church. It was received after the date in which it was written.

768 Exhibit PX 20 is a photocopy of an official act contained in the Archives which was prepared at my direction and control. PX 20 is a reply of the Holy Synod to PX 19. I attended the Synod meeting on December 10, 1963 in which the decision reflected in PX 20 was made. I do not have recollection of other business discussed at that meeting. I do not recall who
769 else was present. In the event that I could recall, I could not as a clerk under vow make public what was discussed. I know this meeting lasted longer than
771 usual, but I cannot say how long. I have never been a Court Clerk in the Church Court, and I only know what is prescribed in the Canons, Constitution and Penal Code. Nowhere is there an obligation to submit to the accused the complaints against him. There was a procedure for Church Courts prior to 1961. There was a procedural regulation for the Diocesan Courts but it did not apply to exceptional or extraordinary Church Courts. The former rules of procedure did
773 not apply to a Bishop's trial. When the Penal Code in 1961 became effective, it superceded the previous code. The reference in PX 14 appointing the Investigating Commission refers to Article 67 and 90 of the Penal Code which is PX 69.

777-783 (Conversation and reproduction of documents)

785 At the December 10 Synod meeting, a Professor of Canon Law was called in to be heard as an expert. I cannot recall whether anyone else was called in. As far as I know no member of the Holy Synod talked or conferred with anyone from the Religious Commission on December 10, 1963.

I cannot verify that I received the original of DX 3 for identification in Belgrade. PX 20 was mailed within a few days after it was prepared. I do not know on what date Bishop Dionisije received PX 20. I don't know whether we have a return receipt. There were newspaper articles as enclosures. The last sentence of Paragraph #65 of the Penal Code states "unsigned submissions in no case are or will not be taken into consideration or proceedings." Article #65 of the Penal Code was in force and effect for the years 1963 and 1964. During my absence in July, 1963 the Reverend of the Holy Synod of Bishops, Protodeacon Civan Stefanovich, acted as Secretary to the Synod. I do know that Reverend Stefanovich was present at the December 10 meeting, but I do not recall why. He was the regular Reverend of the Synod and it was not unusual for him to be there. He had access to the Archives.

At the meeting of May 10, 1963 of the Synod, the Synod had before it a copy of the decision of the Holy Assembly made in its morning session which was submitted by the Secretary of the Holy Assembly of Bishops. I believe the Holy Synod met during the pause between the meetings of the Holy Assembly of Bishops on May 10, 1963. The Holy Synod of Bishops did not render any verdict against Bishop Dionisije on the Indictment presented to it. Article #71 of the Penal Code was in force and effect during 1963 and 1964. The Holy Synod rendered its decision by which the entire subject was submitted to the Holy Assembly on February 25, 1964. I attended that meeting of the Synod. I do not recall who was there besides myself and the five members of the Synod. No witnesses were called to give any testimony regarding the complaints and charges against Bishop Dionisije.

PX 16 is the complete Indictment considered by the Synod on that date. Additional charges were added to the Indictment as indicated on Page 12 of the Judgment. I do not recall whether additional charges were added on November 13 and 14 of 1963.

Article 70, sub-section 35b of the Serbian Orthodox Church Constitution was in force and effect in 1963 and 1964. Article #63 of PX 69, the Penal Code, was in full force and effect during 1963 and 1964. Article #69, sub-section 27b of the Serbian Church Constitution was in full force and effect in 1963 and 1964. All of the Penal Code, PX 69, was in full force and effect without changes or amendments in 1963 and 1964. The Constitution was in full force and effect and was changed in that it was amended in 1963 when the American-Canadian Diocese was reorganized and three dioceses formed from that one, and in 1962 when the Assembly decided to temporarily assume and perform the functions of the Patriarchal Council.

I do not recall the names of the members of the Synod on May 10, but PX 1 contains those names. I do not know the names of the members of the Synod on February 25, 1964. The Church prosecutor who prepared the Indictment was Bishop Visilije. Bishop Hrizostom and Bishop Visarion were appointed as the Investigating Commission by the Synod in 1963. Patriarch German, Bishop Damaskin, Bishop Visarion, Bishop Hrizostom, Bishop Valerijan, Bishop Valadislav, Bishop Nikanor, all voted on the judgment on March 5, 1964. No witnesses were heard or examined by the Assembly on March 5, 1964. All the materials and documents referred to in the Indictment were available for examination and review by the Assembly. Documents were available on July 27, 1963.

I was not present at the voting on March 5, 1964. The
813 signatures of all the Bishops appearing on the typewritten excerpts marked PX 22e appear in the original minutes. Article #77 of the Church Constitution was in full force and effect on March 5, 1964. Article
814 #69, sub-paragraphs 27 and 28, state the Judicial Authority of the Holy Assembly. On the basis of the Canons the Assembly can judge in both the first and second instance. Article #57 refers to the authority
815 of the Holy Assembly. Article #63 of the Penal Code refers to the Judicial Authority of the Holy Assembly. When the Holy Assembly acts as Court of the
816 first instance, there is no appeal. An Appeal from a decision of the Holy Synod is to the Assembly. PX 1
818 was prepared under my control and I don't recall whether it was done upon Bishop Firmilian's request or his attorney. A request most likely did come from our Church authorities in America for the need of the Courts here. There have been many requests for documents from the Archives relating to this matter since May, 1963.

820 PX 4, a letter from Bishop Firmilian was received in the office of the Patriarch shortly after the date it bears. The Synod studied this document. PX 3c is
821 the official announcement to Bishop Firmilian about his appointment. I do not recollect if there are any
822 such documents addressed to Bishop Firmilian as Administrator of the American-Canadian Diocese. I did not bring a copy of PX 1 to any of the other Court cases in which I testified. The intended material of
823 three lines is part of the decision of the Holy Synod.
824 The whole decision of the May 10 Synod is set out below the colon on PX 1. The material in PX 1 is
826 the same as in PX 3c. This is the first time that the decision was submitted in its entirety to a Court.

I prepared PX 18a on or about the date it bears. It
827 is an official act of the Serbian Orthodox Church. It is true and correct, but the decisions are only briefly reproduced and it does not follow the same consecutive order. Articles 57 and 64 of the Constitution re-
828 late to amendments. Article 16 refers to the Patriar-
830 chal Council. Articles 81 through 90 of the Constitution refer to the Patriarchal Council. The Constitution became effective through the decisions of the Holy Assembly and in due time it will be submitted to the Patriarchal Council which has not convened for nearly thirty years.

831 The decision to amend the Constitution and divide the American Diocese into three dioceses was not submitted to the Patriarchal Council. The Constitution does grant to each diocese representation upon the
836 Patriarchal Council by the Vice President of the Diocesan Council and one ordained person of the white clergy. Article 82 of the Constitution so pro-
839 vides. PX 68c-1 is the complete decision made by the Holy Assembly relating to their assumption of the duties of the Patriarchal Council. When the
840 Patriarchal Council is convened this decision will be submitted to it. The Patriarch convenes the Patriarchal Council. The decision of the Assembly was forwarded to all Diocesan Bishops. The Holy
842 Assembly did pass a Resolution providing that future Patriarchs will be elected by the Holy Assembly of Bishops and disbanning the Patriarchal electoral assembly. Articles 42 through 52 of the Constitution were affected by that decision. There are three of-
843 ficial dioceses in America. Eastern American-Canadian Midwest American, and Western American, and there is still not liquidated American-Canadian Diocese.

844 I do not consider myself an expert on canonical law.
846 There is a relationship which is maintained by the heads of the autocephalous churches between themselves. The head of one Orthodox Church has no authority over another. There is an obligation for one Patriarch to inform another Patriarch of important events which happen in his church. Each autocephalous church has the authority to rule itself independent of other churches.
849 Somewhere from $35,000 to $55,000 a year is received from people in the United States. That figure includes private donations to individual churches. I know that Bishop Dionisije sent a smaller sum of money to the Patriarchate for the Theological Faculty. I could not guess what percentage of the budget the $50,000 represents. I cannot verify whether the sums from the United States have decreased, but I presume that they are growing.
856 I did not represent the government in any of the nationalization of church lands.
862 In 1939 when I commenced my clerical work the King of Yugoslavia was in existence. The Kingdom of Yugoslavia ended after the close of the Second World War. It was succeeded by a republic where a President was at its head. Agricultural lands, forests, orchards, and all other lands which were church properties, were nationalized. There were two nationalization laws.
881 The name of the government in Yugoslavia is the Federated Executive Council of Federal Socialistic Republic of Yugoslavia. There is a Commission for Religious Affairs of the Federated Executive Council which pertains to all religions in Yugoslavia. I have dealt with this Commission in regard to my official

services as a Clerk of the Court. There were requests
891 from this Diocese for more bishops. As far as I know
892 Bishop Dionisije was not present at any hearings. He was not at any hearings when charges were made against him.

Redirect Examination.

904 When counsel for the plaintiff were in Yugoslavia I did not exhibit any documents to them. I saw you off at the airport when you left Yugoslavia. The documents I brought are true and accurate copies. There
907 is no provision for a representative at a hearing on a
908 bishop's trial. PX 8A contains all of the decisions of
909 the Assembly of Bishops made in its session of July 27, 1963 with respect to the subject matter reported
913 in the exhibit.

An offer of proof by defendant—examination of wit-
915 ness Mladenovich. (Court suggests that counsel state what he offers to prove rather than have the witness testify.) Counsel for defendant states that he offers to prove through this witness that all church property
917 above 10 acres of land was seized, that the committee for religious affairs is notified when guests are expected from the outside and also when churchmen would leave the country to go elsewhere as guests. That one-half of the total amount paid by the federal committee for religious affairs is for pensions and that the federal commission for religious affairs is
920 appointed by the federal executive council. Counsel offers to prove that clergymen are not entitled to attack the government and carry on politically, and
921 that a record is kept of consents given for children to
922 attend religious education classes. That this witness was met by the Yugoslav Council or representative when he arrived in New York City in June, 1963. That

in his files there are requests for more bishops from the American-Canadian diocese but no requests for three new dioceses. Counsel closes offer of proof and
923 the Court rejects the offer.

Redirect Examination continues.

926 Article 60 of the constitution deals with the question of majority or unanimous votes by members of the assembly and synod; 105 also deals with that subject.
929 Articles 3 and 60 of the Penal Code refer to a statute
930 of limitations. Article 66 and 70 refer to the situa-
931 tion where an accused does not submit a reply. Articles that define clerical offenses and penalties are 55, 56 and 57 of the Penal Code. The type of offenses are
932 described in Articles 8 through 45. Articles 2A, 14 and 217 of the constitution deal with clerical offenses and penalties. Article 216 tells what kind of church
935 penalties there are for clergymen. Article 67 of the
936 Penal Code indicates that complaints need not be signed.

937 Offer of proof. Suspension of a diocesan bishop is
938 not a punishment. Offer of proof is closed and rejected by the Court.

The word "enclosure" in the indictment refers to the material which was used as a basis for the writing
941 of the indictment. PX 4D was received after the date it bears in the Patriarchate in Belgrade. The original is in the Archives. The capital letter typing appearing above the letterhead does not appear on the original. The numbers 115 and "11 t" refer to the original
942 letter of which PX 4D is a copy.

943 The first patriarch was Joanikije. I was not a clerk
945 at the patriarchate at the time Bishop Mardary came
947 to the United States. PX 71A was received in Bel-
948 grade. The original is in the Archives. The signature

950 is that of Bishop Dionisije. Zivan Stefanovich became a deacon in Scopia around 1933 or 1934. He was clerical trainee in the church court of that diocese. After a few years he was transferred to the church court of the diocese of Belgrade and having passed the clerical examination he was appointed recorder of that church court. A few years later he was transferred to work in the Holy Synod and later he became a referent of the Holy Synod. He remained at that job until about
951 3 years ago when he was lost. It was unknown where he was located. About a month after his leaving a man by the name of Mooster came to the office of the Synod
955 in Belgrade. I received a card from Father Stefano-
956 vich after his departure from some place in Germany. A letter was received from him directed to Patriarch
957 German. This letter is among the Archives and Rec-
958 ords of the church in Belgrade. I recall something of
959 its content. I don't know where Father Stefanovich is now. He had no relationship with the Serbian Orthodox Church in Yugoslavia or with the Serbian Church in America.

960 On May 10 the Holy Assembly of Bishops recessed
961 and the Synod met during the recess. The Synod meeting occurred before noon. No provision or rule exists
964 preventing investigating bishops from voting on judg-
965 ment. The patriarchal council met once, in the year
966 1936. Members are appointed for 6 year terms. Articles 219 and 220 of the constitution have a relationship with Articles 67 and 90 of the Penal Code.

983 BISHOP NIKANOR ILICICH testified as follows:

Direct Examination.

My name is Nikanor Ilicich and I presently reside in Novi Sad, Yugoslavia. I am a Bishop of the Serbian Orthodox Church. In 1939 I became a priest and after

985 teaching for 17 years in a gymnasium, I was appointed Bishop of Gornji Corvos where I remained until 1951. I was then elected by the Holy Assembly of Bishops as Bishop of Srem with its See in Sremski Karlovci. In 1955 I was elected Bishop of Bachaka and I still serve there today. Since the ordination and election
987 as Bishop I have attended every meeting of the Holy Assembly of Bishops. I was elected to the Holy Synod
988 in 1951 for two years and then in 1959 and for a third time elected last year. The Holy Assembly of Bishops meets once a year shortly after Easter. The subject
989 matter of these meetings are generally legislative, financial, educational and administrative. Canonical regulations require that every Bishop attend all sessions of the Holy Assembly of Bishops and this is
990 also contained in the Episcopal oath which he takes at the time of his consecration. I had occasion to visit the United States in 1962 and this was my first visit. We received a report from the Bishop of the American-Canadian Diocese that, due to the expansive territory, he considered it necessary for this diocese to be elevated to the rank of a Metropolitanate and also proposed that South America and South Africa be annexed to this diocese. The question of the election of from two to three vicor-Bishops was also proposed.
991 I have examined PX 58-A as well as 57-A. 58-A is
992 a communication from Bishop Dionisije to which I just made reference. The Holy Assembly after the receipt of Bishop Dionisije's letter considered and acted upon it. I was present in the meeting and participated in the discussion. The Holy Assembly ac-
993 cepted the recommendation and sent a delegation to the United States. I have examined Plaintiff's Exhibit 72-A and can state I am familiar with the signature on the bottom which is that of the Supreme Secretary of the Holy Synod of Bishops, Archpriest Mladenovich.

995 I have read Plaintiff's Exhibit 73-A and it is signed
996 and sealed by the Secretary of the Holy Synod. It is the commission which I received authorizing my visit
997 to America. The other members of the commission were Metropolitan Damaskin, and Photo-Deacon Bronco Petrovich.

1000 In addition to the written instructions in our commission we received oral instructions from Patriarch
1001 German. The Patriarch told us that there were many letters of complaints about Bishop Dionisije and that we should make an attempt to find out what was going on and talk to the Bishop. The subject matter of these complaints had been discussed in meetings of the Holy Assembly of Bishops. We left for America on September 11, 1962. I believe we arrived in Liber-
1002 tyville on the 18th or 19th. We remained in the
1003 United States for 88 days arriving in Belgrade on the 4th of December. During the visit we traveled
1004 through all of America visiting and participating in various celebrations and had contacts with various groups. In an attempt to carry out our written and oral instructions, for the first several days we stayed at Libertyville and met with Bishop Dionisije. Metropolitan Damaskin and myself were present, but the
1005 deacon was not. Our discussions first dwelt on the size of the diocese and the need for vicar-bishops. We
1006 told him that we would transmit his requests to the
1007 Holy Assembly. In the Serbian Orthodox Church a Metropolitan is only an honorary title. In the Greek Church a Metropolitan usually has several Bishops who work under him and are his assistants.

Bishop Dionisije and I had many discussions concerning these things. We also discussed this matter of a Metropolitanate with the Diocesan Council at Libertyville the day after we arrived. Metropolitan Damaskin told them that under the constitution of the Serbian Church a Metropolitanate of the type that he requested would not be possible, but with regard to any other problems of the church the Patriarchate who would endeavor to accommodate them in any way they could. Other than a general reference to some complaints which had been received in Belgrade, no discussion was conducted concerning the allegations on the conduct and transgressions of Bishop Dionisije. We met the Diocesan Council again on the Patron's Feast day of Bishop Dionisije. After we left Libertyville we visited a number of cities and completed our mission to observe our church-school of congregations in the country.

Offer of Proof—When in Pennsylvania, a gentleman came up to me and said that he had built the church there, and since 1905 had a well organized church congregation. He then said, "Only our leader isn't good." By this he referred to Bishop Dionisije. End of the Offer of Proof.

Other incidents similar to this occurred in other cities. The delegation discussed with Bishop Dionisije these several incidents in Libertyville. As we traveled about the country, we received written complaints as well as the oral ones which we forwarded to Belgrade.

Offer of Proof. To some of the people who made oral complaints we gave instructions concerning drafting a document and mailing them to the Patriarchate. End of the Offer of Proof.

The delegation completed its examinations of the congregations sometime early December of 1962 and then made a report to the Holy Synod of Bishops. The report was submitted in January and the annual meeting of the Holy Assembly was held in April of 1963. The substance of the delegations report was considered by the Holy Assembly during their meeting. Our report was read in full to the Holy Assembly's meeting. In the course of that reading and discussion, we made recommendations to the Holy Assembly that proposals made be accommodated where possible. Another committee was appointed to study the report again and make proposals. This commission made a further report to the Holy Assembly of Bishops. I attended the May 10th meeting of the Holy Assembly of Bishops and the subject of the charges against Bishop Dionisije was taken up first at the suggestion of the Patriarch. Based on the canons, the recommendation was made that the material be given to the Holy Synod of Bishops concerning possible penalties against Bishop Dionisije. Also discussed at this time was the subject of suspension of the Bishop and the reorganization of the American-Canadian Diocese. The Assembly recessed its meeting forwarding this subject to the Holy Synod of Bishops which in turn suspended Bishop Dionisije and appointed Archimandrite Firmilian as his administrator.

The Holy Assembly then voted for a reorganization of the American-Canadian Diocese dividing it into three parts each given a new name; The Mid-Western American which was assigned to Bishop Dionisije, the Eastern American-Canadian and the Western American. Three administrators were appointed: Archimandrite Firmilian, Archpriest Lastavica and Archimandrite Gregory Udicki. It is my

belief that the areas of South America and Africa
1065 were not included in any of these three dioceses, but were assigned to Bishop Sava.

1067 Regarding Plaintiff's Exhibit 57-A, I recall this letter as a report of Bishop Dionisije's arch pastoral work. Proposals contained in this letter were discussed at the afternoon meeting of the Holy Assembly of Bishops on May 10th, 1963.

VERBATIM TESTIMONY

[1071] By Mr. Jenner:

Q. Your Grace, during the course of the afternoon session of the Holy Assembly of Bishops on May 10, 1963, do you have a recollection as to whether or not the Holy Assembly of Bishops, including
[1072] yourself, had in mind and discussed that portion of Bishop Dionisije's report in which he stated that he had divided the American-Canadian Diocese into four Episcopal Districts: The Midwestern, the Eastern, and the Western and Canadian.

Mr. Snyder: Objected to.

The Court: What is the objection?

Mr. Snyder: The objection is what he had in mind and what the Sabor of the Holy Assembly of Bishops had in mind. How is this witness competent to make such statements?

The Court: Overruled.

The Witness: Yes. The Constitution of the Church allows a Diocesan Bishop to divide his Diocese into as many Episcopal Districts as he wishes and we knew that the Diocese had four Episcopal Districts, but that has no connection with the reorganization which is something completely new. That would not prevent us from reorganizing the Diocese regardless of what he had done.

ABSTRACT TESTIMONY RESUMED

1075 All of the meetings of the Holy Assembly of Bishops are closed meetings and only regular diocesan bishops are permitted to attend. Any balloting done
1078 at these meetings is done by secret ballots. The Holy Synod likewise conducts its meetings in secret and consists of the four member Bishops, the Patriarch, who presides, the Supreme Secretary, who is always present, and one or two clerks all of whom are clergy.
1079 The Supreme Secretary of the Serbian Orthodox Church is not permitted in meetings of the Holy As-
1080 sembly. The reorganization of a diocese is a hierarchi-
1082 cal matter. The meeting of 29 July, 1963, considered only the subject of the charges against Bishop Dionisije.

1083 I have read Plaintiff's Exhibit 8-A and was in attendance at the Holy Assembly of Bishops when the course of events and action recited in Plaintiff's Exhibit 8-A took place. This document fairly and accurately reflects what took place on that day in my presence. From my recollection, we began the meet-
1085 ing as usual and then received reports from various committees. There was some discussion concerning Bishop Dionisije that, although he was under suspension, he was celebrating services and had renounced allegiance to the Assembly, the Patriarch, and the Synod. After this a discussion unfolded as to how to proceed with Bishop Dionisije and there were various opinions and then it was voted upon.
1086 At the conclusion of the discussion the subject was voted on and the decision was rendered that Bishop Dionisije be relieved of his duties.

1091 Reverend Hrzistom is the Bishop of Branichevo and Rev. Visarion is the Bishop of Banat. The com-

munique, which is Plaintiff's Exhibit 17-A, was considered during the course of the meeting of the Holy Assembly of Bishops on July 27, 1963.

1097 Plaintiff's Exhibit 74-A, a document I have just read, was considered and discussed during the course of the meeting of the Holy Assembly of Bishops around July 27, 1963.

1098 Plaintiff's Exhibit 75-A is a document dated June 6, 1963, on the letterhead of the Serbian Eastern Orthodox Diocese of the United States of America and Canada at Libertyville, addressed to the Diocesan Council Plenum of the Serbian Orthodox American-Canadian Diocese signed by Bishop D. whose handwriting I recognize. The reading of this document 1099 refreshes my memory that it was considered at the 1100 meeting of July 27, 1963. I did not see this exhibit this is 75-A on July 27, 1963, during the course of the meeting of the Holy Assembly of Bishops, but when we were preparing our materials for the as- 1101 sembly I had occasion to become acquainted with it.

1104 I can identify the signature at the bottom of Plaintiff's Exhibit 760-B as that of Bishop Dionisije and similarly it appears at the foot of page 3 on Plaintiff's Exhibit 76-A.

1105 This refreshes my recollection that Plaintiff's Exhibit 76-A and B were before the meeting of the Holy Assembly on July 27, 1963. The contents of these 1106 exhibits were reported on in the course of that meeting and dicussed by the members of the Holy Assembly. I have read Plaintiff's Exhibit 77-A which is signed on the last page by Supreme Secretary of the Holy Synod of Bishops, archpriest Mladenovich. This document was before the meeting of the Holy

Assembly of Bishops on July 27, 1963, and a discussion ensued with respect to the subject matter in contents.

1111 I have read Plaintiff's Exhibit 78-A and it is signed by the Supreme Secretary of the Holy Synod. In the lower left hand corner of the Exhibit is the statement, "In Monastary of St. Sava on Vivovdan, 1963"; Vivovdan is our national holiday and also a 1112 religious holiday. This document came to my attention prior to the meeting of July 27, 1963, as had Plaintiff's Exhibit 77-A. I had not, however, reviewed any of these documents prior to the meeting of 1113 the Assembly of July 27, 1963. 78-A was presented at that meeting to the Holy Assembly and the content of the subject matter discussed during the course of the day's deliberation.

1114 I have read Exhibit 79-A and can identify the secretary of the Holy Synod of Bishops signature on the last page. This was also presented at the meeting on the 27th of July.

1115 I have read Plaintiff's Exhibit 80-A and it is signed by the Supreme Secretary of the Holy Synod. This 1116 document was similarly presented at the 27th of July meeting.

1117 I am familiar with Plaintiff's Exhibit 8-A and it was presented with the other documents. The report, or Plaintiff's Exhibit 8-A, was read at a meeting of the Holy Assembly of Bishops on July 27, 1963, by 1134 his grace Bishop Stevan of Dalmatia. Following 1136 the reading of the report, a decision was reached by the Holy Assembly with near unanimity that Bishop Dionisije be defrocked and that two new Bishops be elected. There was also declaration of the Midwest American Diocese be declared as vacant.

It is not possible under the constitution of the Serbian Orthodox Church either of 1931 or as amended in 1947 to have more than one Bishop as the diocesan
1138 Bishop for a diocese. Nor is it possible for the Holy Assembly to appoint a Bishop without designating him as Bishop of a particular diocese. Upon selection of Bishop the candidate is required to take an oath of allegiance which is ordered in the Cathedral Church in Belgrade during the ceremony of the con-
1139 secration. In the oath he answers a series of questions and takes an oath on each answer. These included that he will attend every meeting of the Holy Assembly of Bishops that he will submit to the decisions of the Holy Assembly and the Synod, that he will listen to his patriarch and not go into another's diocese, that he will preach the word of God and submit to the Holy Canons, and if any way he fails he submits to judgment. The oath is taken in the presence of the Patriarch and two or three Bishops who are performing the consecration. He is obliged to reduce
1140 this oath to writing with his own hand and then enclose it with other documents after signing it personally. It is then certified by the Patriarch and members of the Holy Synod. In the course of the July 27, 1963, meeting, consideration was given to the fact that Bishop Dionisije had taken such an oath.

1141 I was present at the deliberations of the Holy As-
1142 sembly on March 5, 1964. The indictment was read by the church court prosecutor who was Bishop Vasilije of Zhica in which he related all of the viola-
1143 tions of Bishop Dionisije. Since the commission had returned and reported that the Bishop no longer recognized our authority, each Bishop present was asked individually to express himself as to whether

he held Bishop Dionisije guilty and everyone replied that he was. Each person asked replied that he should be defrocked and so the decision was a unanimous one.

1151 I attended the Holy Assembly meeting held on May 5, 1951. I have read Plaintiff's Exhibit 38-A. I also
1154 attended the meeting held on June 1, 1951. Bishop
1156 Dionisije did not attend these meetings nor any others; however, I recall after having read Plaintiff's Exhibit 40-A that Bishop Dionisije committed his
1157 proxy to Patriarch Vikentije.

1158 After having read Plaintiff's Exhibit 41, I recall that at a subsequent Sabor Bishop Dionisije sub-
1160 mitted another proxy. The same situation occurred during the Sabor 1958. I attended the Assembly
1166 meeting on June 9, 1959.

1170 I have read Plaintiff's Exhibit 48-A and it refreshes my recollection to the extent that Bishop Dionisije was unable to attend the Assembly on this occasion and gave his proxy to Patriarch German. I attended the June 9, 1962 Holy Assembly meeting but have no independent recollection of what occurred.

1171 I have read Plaintiff's Exhibit 56-A and can state that this refreshes my recollection to the extent that Bishop Dionisije sent his annual report and stated that he could not attend the Assembly and sent his
1175 proxy. We discussed at various times the charges against Bishop Dionisije with him. On one occasion in Libertyville near the end of our visit we asked Bishop Dionisije to pay attention to what was happening in the diocese because of the things that were
1176 being said about him concerning his behavior. We told him politely that we were not investigators and informed him in a friendly way. He replied that he

was an American citizen and that anybody who wrote against him or spoke against him would have to prove what they had said.

1177 Upon our return to Belgrade, Metropolitan Damaskin and I prepared a report which was completed in January of 1963 and then was submitted to the Holy Synod of Bishops and which is now in the archives of the Holy Synod. In that report we described 1181 our travels and our arrival in Libertyville, our meeting with the representatives of the Diocesan Council, and of our discussions with Bishop Dionisije concerning his behavior.

VERBATIM TESTIMONY

[1182] The Court: Without the aid of this document, why don't you ask him what he recalls about the discussion.

Mr. Karacic: All right.

Q. Do you recall, your Grace—strike that. We will withdraw that, your Honor. I think he has mentioned he recalls that being in the document.

Your Grace, during the time you were a professor at the Gymnasium, in Yugoslavia, did you have occasion to teach Religion and the Canons and the organization of the Serbian Orthodox Church?

A. Yes.

Q. And are you familiar, your Grace, with the provisions of the Constitution of the Serbian Orthodox Church?

A. Yes.

Q. And in particular with Articles 14 and 15 of said Constitution?

A. I am. Those articles speak of the dioceses which comprise the Serbian Orthodox Church.

Mr. Crown: Your Honor, I hand the witness 68B which is the Serbian Orthodox Church Constitution in Serbian, and I hand your Honor 68 which is the Constitution in English, and I have opened it to the [1183] paragraphs to which Mr. Karacic has reference, 14 and 15.

Mr. Karacic: Q. Your Grace, can you please advise us, in your opinion as an expert, what is the distinction, if any, between those dioceses as mentioned in paragraph 14 of the Constitution as are to be located in the territorial limits of Yugoslavia, and those dioceses as mentioned in paragraph 15 of the Constitution, as to those dioceses located outside the territorial limits of Yugoslavia?

Mr. Snyder: Objected to, if the Court please. In the first place, this has already been passed upon by the Appellate Court in the law on the case. In the second place, this witness has not been by this examination qualified as an expert.

Mr. Karacic: May I address the Court, please?

The Court: Yes.

Mr. Karacic: If the Court please, this matter came up before, and I believe it was your Honor's opinion that this matter was within your purview, and at yesterday's session, I believe Mr. Jenner asked several questions of this witness, and your Honor suggested that if it is his area within the [1184] church, you considered him on questions of his church an expert.

Now, in addition to the qualifications we have tendered on this witness the day before yesterday, we have now asked the other question, if, in fact, he has ever taught the subject of his Church and the particular Canons, and he so testified he had.

The Court: I believe I have already referred to him in my opinion, as an expert in matters of this general type.

Now, as to the question Mr. Snyder raises, that it has been passed upon by our Appellate Court, Mr. Snyder, will you enlighten me on that point?

Mr. Snyder: Yes. The Appellate Court in its opinion has—I can get the opinion and point it out exactly, what it held. They have held, they have interpreted both the Serbian Orthodox Constitution and these particular sections, and the Diocese Constitution, right in the opinion.

Mr. Crown: Your Honor, may I address the Court for a moment? This case was up in the Appellate Court on a motion for summary judgment.

[1185] This is the first time—by this I mean this hearing which commenced in April—this is the first time that the parties had an opportunity to present evidence. There was no evidence presented on this issue in the Appellate Court. The Appellate Court simply had the Constitution before it, without the aid of expert testimony as to its interpretation.

Now, this is new evidence. That's one of the reasons the case was sent back. I suggest that this matter is proper for this Court to consider, new evidence not heretofore presented.

As far as the bare constitution is concerned, without evidence, yes, that was before the Appellate Court, but none of this evidence that will be adduced at this time was before the Appellate Court. It has never been adduced before, and this is one of the reasons this case was sent back for hearing on proper pleadings on the merits.

The Court: It seems to me we had testimony of a like nature previously from the first witness but—

Mr. Crown: We did, your Honor, from—

The Court: But in any event, I am going to overrule the objection. He may testify.

[1186] The Interpreter: May I have the question repeated?

(Pending question read.)

The Witness: A. Our Church, as an institution, is of Divine origin, and all dioceses are in a Canonical and Hierarchical and integral part of the Church in Yugoslavia. That means all dioceses, both those enumerated in Articles 14 and 15, and they are all in Canonical unity with the Church in Yugoslavia. But as concerns their particular positions, this would have to do only with the administrative aspect.

For example, the Diocese of Budim, it has a constitutional structure of administration which dates back to the time of Restrap, and the Diocese of America-Canada had a Church National Assembly, but in all cases, in cases of dioceses like that, the Bishop is still the head of the diocese. He is the administrator. For example, Bishop Visarion of Banat, he administers the Diocese of Timok which is in Rumania, but he has his Surrogate there who only attends to the administrative matters or affairs, but who doesn't have any spiritual or canonical au-

[1187] thority to do anything, if he doesn't have the authorization from his competent Bishop. He doesn't have the right of granting dispensations or any or all the other matters which fall only within the competence of the jurisdictional Bishop, and the spiritual aspects of his authority. That belongs only to the Bishops. The authority of a Bishop is not devisive [sic]. Everything that an administrator does, he does only by authorization.

ABSTRACTED TESTIMONY RESUMED

1182 I am familiar with the constitution of the Serbian Orthodox Church, and articles 14 and 15 enumerate the diocese which comprises the church. Our church
1186 as an institution is of divine origin and all of the diocese are in a canonical and hierarchical and integral part of the church in Yugoslavia. That means all of the dioceses enumerated in articles 14 and 15 are in canonical unity with the Church in Yugoslavia. But as it concerns their particular positions, this would have to do with only the administrative aspect.

1189 *Cross Examination.*

The diocesan council meeting which I attended on September 14, 1962, was the council of the Serbian Eastern Orthodox Diocese of the United States and Canada a religious corporation. The meeting was
1192 held in Libertyville and Nick Stepanovich was seated
1193 at the counsel table during that meeting. Dr. Urof Seferovich was at that meeting.

Metropolitan Damaskin spoke at that meeting and said that the directions to the delegation were to consider three things: (1) the elevation of the American-Canadian Diocese to the rank of Archdiocese Metropolia (2) adding to the American-Canadian
1194 Diocese the territory of South America and Africa (3) election of two or more vicar-bishops as assistants to the legal diocesan bishop. Greetings were extended to us by Nick Stepanovich and Dr. Uro Seferovich. They told us that we could go to Shadeland, Jackson and Libertyville and see the progress made in the last 20 to 30 years.

1195 All of our expenses were paid for by the motion of the diocesan council. We were warmly received

by Bishop Dionisije and given permission to go to all parts of the diocese. Bishop Dionisije also told us that he did not recognize the Macedonian church as an Orthodox Church and he would not recognize bishops as they came here and his congregation would not receive the priests. After being given traveling funds and permission, we went to California and traveled throughout the entire diocese.

1196 I believe that I have already testified as to all the persons with whom I talked with reference to the conduct or actions of Bishop Dionisije. I believe, to the best of my recollection, I talked of the conduct and actions of the Bishop with Dr. Uros Seferovich. I do not know Heirmonk Nikolaj Vazeich nor did I discuss the conduct of Bishop Dionisije with him or the Rev. Vladimir Milinkovich. I did not discuss Bishop Dionisije with Ljubich Milinkovich or the Rev. Ljubisav Djurich. I did discuss the Bishop with the Archpriest Stevan Prostran on the occasion of a
1198 visitation with him in his church and on another occasion when we were visiting him on a private visit.

1206 The only people who ever complained to me about the conduct of Bishop Dionisije were enumerated in my direct examinations. While I was in this country
1208 I made a courtesy call to the Yugoslavian Embassy. I do not know to whom I spoke and was only there for about 15 minutes. I had not seen the Yugoslavian consul prior to my visit to his quarters. Upon my arrival in New York, I was met by the counsel and Bishop Firmilian. After my arrival in Chicago, I
1210 was met at the airport and taken by Father Balach and Bronco Petrovich in a car to the monastery. I did not make any calls to the Yugoslavian consul

but I don't know if the others of the delegation did or not. I was not instructed before departing from Belgrade to make courtesy calls on Yugoslavian consuls in the United States.

In our diocesan meeting held in November, Metropolitan Damaskin thanked his grace Bishop Dionisije for purchasing all of the tickets and schedules and lodgings for our trip around the country.

Metropolitan Damaskin also said at this time that the Bishop's council did not recognize the Macedonian Church because it was a political thing under the regime. He said that they didn't want the government to mix into the church. He stated that he hoped that we understood their reasoning that their constitution shouldn't be altered, as a change in the constitution concerning our diocese would be a starting point for further changes that would be impermissible. He said that no one could foresee the end of it, and that he believed the church would be damaged more than profit from altering the constitution. He further stated that we could make regulations, by-laws, decisions as we wished for the benefit of this diocese and the patriarchate would enjoy and accept it.

The Metropolitan further said that we should not touch the question of the constitution and gave the example that it is known that Bishops of Dioceses are elected and appointed by the Holy Bishop's council and the laymen do not elect or appoint bishops. He stated that if we touched that provision and give the right to laymen then the civilians in the old country would ask for the same right. He further said that if that happened, God save us, for we would know who would be electing and appointing the Bishops in the old country. He told them not

to discuss the questions publicly or through the papers.

At this time Bishop Dionisije stated that at the present time he could not attend sessions of the Holy Bishop council while the atheistic communist regime was governing in Yugoslavia. He further stated that when he sent someone over there he asked that they be received—that he felt that it was his sacred duty to do national and church work in the United States and Canada and that it was not political. He also requested that if there were any charges against him they should be sent to him for an answer and that he wanted to know who was sending them and what they were. The Metropolitan told Bishop Dionisije that he was not punished because of not attending the Bishops' council meetings.

The delegation of which Brkich was a member was not received when it arrived in Belgrade as it was not headed by a Bishop. I do not recall any member of the council saying that it was very clear to everybody that the immigration of the Serbs to this diocese is for the destruction of communism. Nor do I recall someone saying we love and respect our holy church but we hate communism and communists.

Currently in the United States and Canada there are three dioceses. The Bishop of the Western American diocese is Bishop Gregory Udicki who was appointed I believe in 1964. His diocese mainly consisted of California and he was appointed by the Holy Assembly of Bishops who have the sole power to remove him. Bishop Sava Vukovich is the Bishop of the Eastern American and Canadian Diocese who was appointed by the Holy Assembly of Bishops.

To the best of my knowledge the Western American Diocese doesn't have a constitution but uses the

general constitution of the Serbian Orthodox Church which is also valid for it. Similarly, the Eastern
1271 American Diocese and the Midwestern American Diocese have no constitution of their own, but use the constitution of the Mother Church in Belgrade.
1272 The Macedonian Diocese has a constitution but it was not approved by us. Other than the constitution
1274 of the Macedonian church which we did not approve and the forming of the American-Canadian Diocese, there are no other diocesan constitutions in the Ser-
1275 bian Orthodox Church. The Macedonian Church has a Metropolitan.

1276 The American-Canadian Diocese has not been completely liquidated. It remains for the Episcopal Bishop's counsel to arrange the internal affairs and then that will be the end of the American-Canadian Diocese. The assets there disposed of will then be
1277 distributed to the other three dioceses which would include giving Shadeland to the Eastern Diocese, Jackson to the Western Diocese and the Monastery in Libertyville to the Midwest American Diocese.

1278 None of the charges against Bishop Dionisije were ever given to him. I never personally received any letters on this trip about Bishop Dionisije as they were all handled by Metropolitan Damaskin. All of
1280 the charges written and oral, which were received in Belgrade and which the delegation received while here, were taken to Belgrade and none of that was ever given to Bishop Dionisije and when proceedings were initiated all of the material was given to the church prosecutor Bishop Vasilije to prepare an indictment. Father Petrovich was excluded from the meeting of Metropolitan Damaskin and myself when we discussed the complaints about Bishop Dionisije

1281 with the Bishop. We were not ordered by the Patriarchate to exclude the Father. We were required by direction to discuss these things with Bishop Dionisije out of the presence of any other witnesses. These instructions came directly from the Patriarch. There is no requirement in the Serbian Orthodox Church
1282 which requires this and there is no requirement in
1291 the penal code. There was no other commission of the Serbian Orthodox Church which came to the United States of America between the time of my return on December 4, 1962, and May 10, 1963.

1295 It is the usual practice in the Serbian Church to announce in advance who the newly elected Bishops
1296 will be. The Holy Assembly of Bishops make that determination from a list of candidates. And in the
1297 case of Bishop Firmilian and Udicki, this occurred on the 27th of July, 1963. There are a number of names on the list and a candidate waits his turn until he is selected to be made a Bishop. There were other names on the list than Firmilian and Udicki but be-
1298 cause of their qualifications for this region we elected them Bishops. There were about ten names on the list when this selection was made. It is not customary for the Serbian Orthodox Church to announce the names of persons who will be elected Bishops before the actual election. The 1962 delegation of which I was a member was not sent to the United States to summons Bishop Dionisije to Belgrade nor did we at any time ask him to come to Belgrade for the purpose of answering the charges.

1299 The '62 delegation was not appointed under the provisions of the penal code as an investigating body. Prior to leaving Belgrade we did not have an opportunity to see the charges lodged against Bishop Dionisije but were told by the Patriarch that they

did exist and that we should counsel and advise the Bishop orally that he should watch his conduct. After
1300 our arrival Bishop Dionisije asked the Metropolitan if there were any charges brought against him in Belgrade. The Metropolitan replied that there were and they were of a moral nature. Bishop Dionisije then stated that he was an American citizen and requested that those submissions and complaints be
1301 sent to him so that he could reply to them. None of them were sent.

1304 The Holy Assembly of Bishops notified Bishop Dionisije every year of the annual meeting, but none
1305 of those notices ever indicated to the Bishop that he would be punished for failure to attend. Bishop Nastich did not attend any of these meetings for his vicar-bishop. Neither the Bishop of Zica, Nikolai nor
1317 the Bishop of Dalmatia, Irinej ever attended a Holy Assembly of Bishops meeting while I was in attendance.

1318 *Redirect Examination.*

I do not know what the Illinois Religious Corporation is or what Illinois Religious Corporation laws are. The Holy Assembly of Bishops directed the newly elected Bishops and the church national assembly set new boundaries for the three new dioceses.

1319 The Holy Assembly of Bishops at no time subsequent to May 10, 1963, ever took any action or made any decision with respect to the ownership or location of assets or property in the American-Canadian Diocese.

1327 Deposition of METROPOLITAN DAMASKIN:

My name is Gredenicki Damaskin and I am the Metropolitan of Zagreb and am 77 years old. I became a deacon in 1913 and was ordained as a priest
1328 in 1916. I became a Bishop in 1931 although I am

1329 referred to as a Metropolitan which is an honorary office in the Serbian Church and only four bishops have been so honored. A Metropolitan in our church does not have supervision over other Bishops. The patriarch is the highest rank in the Serbian Orthodox Church and a Bishop is elected patriarch by the counsel of Bishops. Bishops in the Serbian Church are elected by the Sabor of Bishops and are consecrated by the patriarch with the assistance of two or three Bishops.

1330 The meetings of the Sabor of Bishops are not in secret, but they are closed to the public and no one can attend except Bishops. Minutes of these meetings are kept and decisions are recorded. The first order of business at the first meeting of the Sabor is the election of two secretaries from its members and they record these proceedings. The minutes are prepared by the office of the Holy Synod of Bishops and are signed at the next meeting by all present members of the Holy Assembly after which the decisions of the Holy Assembly become law. Any vote
1331 which is not unanimous is taken by ballot. The patriarch's vote is no more significant than any other bishop except that in a case of an equally divided vote he casts the deciding ballot. I was a Bishop in
1332 the Serbian Orthodox Church in the United States from 1938 to 1939. I came to lead the diocese in 1938 which had been vacated for three years after the death of Bishop Mardary in 1935. The Holy Synod of Bishops is the executive branch of the Holy Assembly of Bishops. The Holy Synod is elected by the Holy Assembly and is comprised of four Bishops who are members of the assembly at whose head is
1333 the patriarch. The Synod has however a secretary who is not a Bishop and in exceptional cases is not

even a priest. Within the church there is the office of administrator who temporarily administers a parish or a diocese. While in the first case the administrator of a parish is a priest, the administrator of a diocese does not necessarily have to be a bishop.

1334 I was sent in 1938 to the American Diocese by the Holy Assembly of Bishops. Bishops are sent to the diocese only by the decision of the Holy Assembly and the diocese is created by the Holy Assembly of Bishops. Geographical boundaries do not always remain the same and in the past other dioceses have changed boundaries to make administration of the church easier. As the general rule there is one bishop for each diocese but the patriarch could have according to the constitution vicar bishops. These Bish-
1335 ops aid the patriarch and may perform any function which are not connected to the patriarch exclusively. The vicar Bishops are not members of the Holy Assembly and they are responsible to the patriarch. From the time of the death of Bishop Mardary until the time I came to the United States as Bishop, Irinej Gjorgevic, the Bishop of Dalmatia was the administrator of the American-Canadian diocese.

1336 In November of 1939 the Holy Assembly of Bishops elected me for the diocese of Banat in Yugoslavia and I returned to that post. I was succeeded as Bishop of the American-Canadian Diocese by Bishop Dionisije Milivojevich. I do not recall when he was consecrated but prior to that he was vicar bishop of the patriarch.

1337 I returned to America in 1962 in the capacity of president of the delegation of the Serbian Church under the direction of the Holy Assembly of Bishops and the Synod and I was accompanied by Bishop Backa Nikanor and Deacon Bronco Petrovich, clerk

of the diocese of Belgrade. During those 27 years from the death of Bishop Mardary until my return to America the congregations and members of congregants increased as did the problem of administration of the diocese. When Bishop Mardary was diocesan Bishop the parishes were not spread all over the United States but when I returned in 1962 my impression, which I reported to the Holy Synod and Assembly, was that the number of parishes had increased, but I did not know if the increase took place in all parts of the United States.

1339 The Bishop of any diocese administers the parishes in his diocese and it is customary and necessary that the Bishop visit parishes. When I returned in 1962 to the American-Canadian Diocese, I was sent on a particular mission. During the war and afterwards normal relations between our church center with the diocese of America and Canada were interrupted because of circumstances. Besides there occurred certain problems in the diocese of America and Canada which were to be solved. At last the Holy Assembly of Bishops deemed it necessary to send a delegation to solve certain questions which Bishop Dionisije noted himself and also some accusations that had
1340 been lodged against him. The problems of the diocese concerned the increased size and number of parishes in the United States and the possible need of a vicar to the Bishop there and a question of elevating the Bishop of the United States to the rank of Metropolitan. Lastly, there were the questions of the accusations against Bishop Dionisije. Our delegation visited and held meetings with Bishop Dionisije, attended a meeting of the diocesan council, and visited
1341 various parishes in the United States and Canada where we had an opportunity to come into contact with the priests and the people.

[1337] Q. Have you returned to America as representative of the church and in the matters of the church several years later?

A. Yes, I have.

Q. In what capacity and under whose direction?

A. In capacity as the president of the Delegation of the Serbian Church and under the direction of the Holy Assembly of Bishops and the Synod of Bishops.

Q. Did anyone accompany you when you went again to America?

A. Yes.

Q. Who were they and in what capacity?

A. They were Bishop of Backa Nikanor and Deacon Bronco Petrovich, clerk of the diocese of Belgrade.

Q. In what year was that?

A. 1962.

[1338] Q. Which month?

A. From September to November.

Q. During those 27 years from the time of the death of Bishop Mardarije until the time of your second coming to America, did the congregations and the number of congregants increase?

A. Yes.

Q. How did the number of parishes and members through these years increase and did the problem of the administration of the diocese of America and Canada occur?

A. Yes.

Q. Were the parishes during the time of Bishop Mardarije spread all over the United States?

A. No.

Q. When you returned in 1962, was the number of parishes increased so that they were spread throughout the United States?

A. My impression which I reported to the Holy Synod and the Assembly of Bishops was that a number of parishes had increased in the United States and Canada, but indeed, I cannot say whether this increase took place in all parts of the United States.

[1339] Q. Does the bishop of any diocese administer parishes in his diocese?

A. Yes.

Q. Is it customary and necessary that the bishop visit parishes in his diocese?

A. Yes.

Q. Could this be applied to the Diocese of America and Canada?

A. Yes.

Q. When you came back in 1962 to the Diocese of America and Canada, did you come because of some particular mission or missions?

A. Yes.

Q. What were those instructions or what mission?

A. During the war and after the war, normal relations between our church center with the diocese of America and Canada were interrupted because of circumstances. Besides, there occurred certain problems in the Diocese of America and Canada which were to be solved. At last, Holy Assembly of Bishops deemed it necessary to send a delegation to solve certain questions which Bishop Dionisije moved himself and also certain accusations existed against him.

[1340] Q. When you spoke about certain problems presented by the diocese itself, could you tell us what were those problems?

A. It has passed already seven years since that time, but I do remember those problems and they are: Increasing of number of the diocese and bishops in the United States and other parts of America. Election of vicar to the bishops there and the question of elevating the bishop of the United States to the rank of Metropolitan. Lastly, there comes the questions of accusations against Bishop Dionisije.

Q. What have you done in completing these special directives?

A. Our delegation visited Bishop Dionisije and held meetings with him—first with all members of the delegations and later only with the bishops. Next we were present at the meeting of the Diocesan Council where we discussed about all important subjects of the coming of our delegation. We were present at the meeting of the Clergy Brotherhood in order to gain important information, and also we visited great

[1341] number of parishes in the United States and Canada where we decide serving in the churches had an opportunity to come in contact with the priests and people.

Q. Was there first discussion of the delegation with Bishop Dionisije and later with the Clergy Brotherhood at their meeting?

A. First, two of us bishops from the delegation discussed two whole days personally with Bishop Dionisije and then only later we attended in another place the meeting of the Clergy.

Q. Where did you hold the meeting with Bishop Dionisije?

A. In Libertyville.

Q. Who was in attendance?

A. Only three of us bishops.

Q. What subjects did you discuss?

A. Being that previous days at the meeting of the Diocesan Council we discussed about main subjects of our mission, we now at this conference discussed mainly accusations which existed against Dionisije. I did not want to discuss about these delicate matters in front of other people.

ABSTRACTED TESTIMONY RESUMED

1342 In respect to the accusations against Bishop Dionisije, Bishop Nikanor and I alone with Bishop Dionisije told him that at the Holy Synod accusations had been filed against him and that he should try by all means to calm the situation and give no more reasons for any accusations. Bishop Dionisije replied that he wished the accusations to be given to him and he would give his answers. I do not know exactly how the Holy Synod and Assembly learned about the accusations but I think they were received through the mail from certain individuals. The accusations remain today in the archives of the Holy Synod. The authors are mainly members of the church.

1343 While I traveled for three months throughout the United States, I received more detailed accusations from certain individuals as well as from some people in Canada. The sources of these accusations were both parishoners and priests. I do not recall talking to Bishop Dionisije again about these additional accusations. I attended the meeting of the diocesan council in Libertyville. We attended a meeting of the

1344 clergy brotherhood where the principal subjects of discussion were the attacks of priests upon Bishop Dionisije. When the attacks of the priests became more critical Bishop Dionisije left and I explained

to the clergy that I could not attend such meetings in his diocese without his presence. During the early
1345 stages of our visit Bishop Dionisije accompanied us to different churches and parishes; however, later we
1346 went alone. The attacks on Bishop Dionisije were both verbal and written. Upon my return to Yugoslavia I gave a detailed report to the Holy Synod for the Holy Assembly of Bishops. I came here to be a witness voluntarily of my own free will. I partici-
1348 pated in many meetings of the Holy Assembly of Bishops and the Holy Synod while the votes that I cast at these meetings were voluntary and without any pressure.

1349 *Cross Examination*

1350 I was elected Bishop by the Holy Assembly of Bishops for the diocese of Mukacevo in 1931 and from that assembly I received my Episcopal Gramata. However, at that time it was accepted practice in our church that to become a bishop you had to receive permission from the king. I was a Bishop of the American-Canadian diocese in 1938 and 1939. I do not remember if I came to the United States with a diplomatic passport. I sent notice to the priests and
1351 people as well as the messages of the Holy Assembly of Bishops regarding my appointment and arrival. The people received me with no objection. The Holy Assembly of Bishops asked me to accept the appointment as it was not my wish. Prior to my election as Metropolitan of Zagrab, the Holy Assembly asked for my agreement. My duties while in the American-
1352 Canadian Diocese consisted of reorganization and strengthening the diocese. I presided at the Sabor of 1938.

1353 That Sabor was held in accordance with the constitution of the Serbian Eastern Orthodox Diocese of the United States and Canada. The constitution was amended at this Sabor and the Holy Assembly of Bishops in 1939 took action on the American-Canadian diocese constitution. Our directions before com-
1355 ing to the United States in 1962 were partially writ-
1356 ten. I do not know where these written directives which I received in 1962 are today. My report to the
1357 Holy Assembly was very extensive covering 43 pages and only part of it was published. A great part of the report and especially the part which relates to the fall of Bishop Dionisije was not published as it was not deemed appropriate to expose the faults of a bishop. Exhibit A, "The Herald," is the official voice of the Serbian Orthodox Church. Part of my report can be found in it on pages 146-153. I did not send
1359 the negative portions of my report to Bishop Dionisije as it was not my place to do so. I sent my report to the Holy Synod for the Holy Assembly and it was for them to inform Bishop Dionisije. I do not know if anyone ever sent the entire report to Bishop
1360 Dionisije. Officially my delegation was not an investigatory commission but it was understood that our duty was to investigate the situation in the diocese and report about it to the highest church authorities.

1364 The only report which my delegation issued was the one to the Holy Synod. I do not recall whether or not I gave a report to the diocesan council in Libertyville in 1962 when Mr. Stepanovich was a member of the council. I do not recall having made the statement recited in the minutes of the diocesan

council meeting held on November 23, 1972 at Libertyville in which I am reported to have said, "You know that the council; that is the Holy Assembly of Bishops, decided to solve the problems of the diocese. In connection with this, a Sabor has sent three of us here. Your problems are known to us and as you know, there are three: (a) question of the constitution. (b) Question of the vicar-Bishops. (c) Question of the diaspora". I was at the meeting of the Holy
1366 Assembly of Bishops in 1963 held on May 10th. However, I will not state as to how I voted as these are internal matters of the church and we are not allowed to discuss them publicly. Our delegation had a copy of the written accusations against Bishop Dionisije during our stay in the United States of America. I
1367 do not remember exactly the number of accusations. The charges and accusations were not given under oath.

1368 It is customary that the Holy Synod of Bishops sends copies of accusations against an individual to that individual. I do not believe any individual member of the delegation receives charges out of the presence of the entire delegation. I do not know if Bish-
1369 op Dionisije was requested to bring defense witnesses.

1370 I am not authorized by the Serbian Orthodox Church to give information as to the number of orthodox dioceses in America. Similarly I am not authorized to state how many bishops of the orthodox church are in the United States of America right now. As you know there are three legal canonical bishops: Firmilian, Gregory and Sava. Firmilian is
1371 Bishop of the Midwest diocese, Gregory is Bishop of the American Western Diocese and Sava is the Bish-

op of the Eastern Diocese. When I was Bishop of the Serbian Eastern Orthodox Diocese in the United States and Canada in 1938 and 1939 I was not at that time Bishop of any other diocese. At that time the diocese had church courts, diocesan councils, schools and parishes. The See was in Libertyville and was later moved to Chicago. In 1939 and 1938 the diocese
1372 had a constitution.

1373 I do not know if the documents I received in 1962 and 1963 were used as the basis of the accusations against Bishop Dionisije but the Holy Synod had other accusations before it. I do not know if Bishop Stefan sent reports to the patriarchate on the activities in the middle eastern American-Canadian Diocese. I do not know if any one personally witnessed
1374 the giving of the oath to the Holy Synod on February 25, 1964, when the Synod considered accusations against Bishop Dionisije. I do not know if the Holy Assembly of Bishops questioned any of the witnesses under oath who testified against Bishop Dionisije on March 15, 1964, when the Sabor was deciding about the defrocking of the Bishop. I do not remem-
1375 ber who comprised the Holy Synod nor if it was the Court of First Instance in considering the charges
1376 against Bishop Dionisije. I do not recall nor do I feel that I should answer as to whether or not my replacement on May 11, 1963, as a member of the Holy Synod occurred at the beginning or at the end of the session. Two members of the Holy Synod are elected each year and this occurs at the end of the session.

1377 "Glasnik" is the official publication of the Serbian Orthodox Church and on page 224 is the official report about the work of the Holy Assembly in the time of April 25 to May 11, 1963. It also recites that I was replaced in the Holy Synod.

1379 *Redirect Examination.*

1380 It would not have made any difference in 1938 when I was elected as Bishop if the members of the diocese objected to my appointment as only the Holy Assembly of Bishops has the authority to appoint a Bishop.

1382 BISHOP VISARION KOSTICH testified as follows:

Direct Examination.

I was born in 1910 in Temesvar, Hungary. My father was an Arch-Priest in the Serbian Eastern Orthodox Church. At age 5 I enrolled for a year in the Serbian Orthodox School in the town of my birth.
1383 I completed high school in 1928. In 1929 I enrolled in the Theological Faculty of the University of Belgrade from which I graduated in 1933. I studied law in Luzern, Switzerland, but did not complete the school. I was then appointed a professor of a teacher's college and high school for the Serbian Orthodox faith in the Kingdom of Romania. I was made a Monk in November of 1935 and remained at the Monastery until 1937 as a librarian. In 1936 I had been ordained a Deacon of the Serbian Orthodox Church. I went to Athens for post-graduate study and at the start of the war was ordained a Priest-Monk. A Monk takes it upon himself that he will be obedient, live chastely, and in poverty as do Nuns. They need not be ordained. I was ordained and served as a Monk-Priest from 1936 to 1937. From
1386 1936 to 1941 I was a Deacon. In 1947 I was elected a Bishop and will be 22 years this coming Sunday. I was a Vicar Bishop and could not attend or participate at meetings of the Holy Assembly of Bishops which is reserved only for Diocesan Bishops. I first

became a Diocesan Bishop in 1951. All Bishops,
1387 Vicar or Diocesan, are elected by the Holy Assembly of Bishops. I was elected Bishop of the Diocese in Banat, Yugoslavia and I served as a member of the
1388 Holy Synod three times. I was elected at the last session to serve on the Holy Synod of Bishops. Plaintiff's Exhibit 69-A is the Penal Code of the Serbian Orthodox Church which bears the title "The Rules and Procedures for Ecclesiastical Courts of the Serbian Orthodox Church." It went into effect in 1961.
1389 I wrote the Code. I submitted it to the Holy Synod and the Holy Synod submitted it to the Holy Assembly who passed it into law on May 19, 1961, and it went in to obligatory effect on June 1, 1961 and all prior regulations ceased to be effective. It is still in full force and effect.
1390 The only change has been in its title. Among the Bishops it is my attribute, and my preoccupation is church law and church regulations. Many Bishops have specialties. The Holy Assembly of Bishops rely upon me as an expert in Church Law. About June 28
1391 of 1963 I visited the United States as a member of the Holy Assembly and the Synod. (End of Volume 5)

1394 BISHOP VISARION KOSTICH testified as follows:

Direct Examination continued.

I attended a meeting of Holy Assembly of Bishops on July 27, 1963. Prior to my attending that meeting I had visited the United States. The Holy Synod of Bishops entrusted to Bishop Hrizostom and myself, in the capacity of an investigation commission of the assembly, to go to America to seek the then Bishop Dionisije and to give him a hearing. We arrived in

the United States at the end of the month of June in
1395 1963. I attended the regular annual meeting of the Holy Assembly of Bishops in 1963 which began about the 26th of March and ran until the 11th or 12th of May. The regular sessions of the Holy Assembly are summoned during the period between Easter and Pentecost and commence the day after Easter and
1396 close on Pentecost. Part of the agenda of the meeting that year was a request by Bishop Dionisije for additional Bishops and the administrative reorganization of the American-Canadian Diocese. The delegation which came to America in 1962 brought back with it those papers that it was carrying and other material which had arrived to the assembly. All of this together with the material that arrived by mail was submitted to the Holy Assembly of Bishops. The commission to which I made reference consisted of His Eminence Metropolitan Damaskin of Zagreb and His Grace Bishop Nikanor of Bachka. A report of that commission was submitted to the Holy Assembly of Bishops' annual meeting of 1963. The delegation
1397 was not appointed by the Assembly but by the Holy Synod upon the recommendation of the Assembly. I attended the Assembly meeting in June of '62 at which the Synod was authorized to proceed with the
1398 appointment of this commission. Invitations to the
1399 assembly are sent in writing to each bishop. With reference to that assembly meeting in 1963 regarding the report of the commission composed by Metropolitan Damaskin and Bishop Nikanor extensive discussions were held in and out of the meetings. All of the writings were read and discussed. Those were the writings and submissions which arrived in the Synod and also the report of the delegation and other materials which came to the assembly and all written

material having a bearing on the subject. The ma-
1400 terial was entrusted into an assembly committee which reviewed and examined it prior to making a proposal regarding a final decision. Their recommendation was brought to the Plenary meeting of the Holy Assembly on May 10, 1963. Only members of the Assembly are permitted to attend meetings of the Holy Assembly of Bishops. The assembly in case of need invite an expert and hear him on a particular matter, but then they are immediately asked to leave and this very rarely occurs.

1401 Only members of the Holy Assembly of Bishops attended the meeting on May 10, 1963. As is customary, on May 10, 1963, the committee for the agenda of the Assembly proposed two items for the agenda
1402 on that day. The first subject concerned the proposals by Bishop Dionisije and the Church National Assembly concerning reorganization of the Church. The second subject was the offenses of Bishop Dionisije. The Assembly accepted the proposed agenda and began to discuss the second subject of the agenda. Having heard the report of the committee comprised of Metropolitan Damaskin, Bishop Hrizostom, Bishop Vladislav and Bishop Valerijan of Shumadika, the Holy Assembly of Bishops decided to recommend to the Holy Synod that in accordance with the rules and procedure for ecclesiastical courts of the Serbian
1403 Orthodox Church proceedings against Bishop Dionisije be initiated. The Patriarch then recessed the meeting of the Synod immediately to follow. The Synod in its meeting initiated the proceedings against Bishop Dionisije and placed him under suspension of priestly function with a lessening of his remuneration to one half. Later in the afternoon the meeting of the

Holy Assembly resumed and various opinions expressed all of which agreed that the existing diocese be divided. There was no suggestion that the former bishop remain and be assigned Vicars.

VERBATIM TESTIMONY

[1401] Q. Is anyone other than a member of the Holy Assembly of Bishops, even a layman under the special circumstances you have indicated, permitted in the Assembly meeting when the Assembly is actually deliberating something?

A. No.

Q. Were any others than members of the Holy Assembly of Bishops in attendance at the Assembly meeting on May 10, 1963?

A. No.

Q. You have a recollection now, your Grace, of the course of the proceedings of May 10, 1963, of the Holy Assembly of Bishops, and I have in mind the subject matters discussed and the order in which they were discussed and acted upon?

First, do you?

A. Yes, yes.

Q. All right. Now, would you give us the fullest of your present recollection of the course of proceedings that day and the order in which they occurred and the action that was taken by the Holy Assembly of Bishops throughout the day, if you met throughout the day?

A. As is customary, the Committee for the Agen-
[1402] da of the Assembly; that is, the Patriarch, proposed two items for the agenda for that day. As the first subject were proposed those proposals that the part of our Church which is in America be reorganized in accordance with the basis of proposals by Bishop

Dionisije and the Church National Assembly, and those proposals were all cited in the, referred to in the minutes.

And the second subject, the offenses of Bishop Dionisije.

The Assembly accepted the proposed agenda and began to discuss the second subject of the agenda. That is the way it was accepted.

Having heard or listened to the report of the committee which was comprised by Metropolitan Damaskin, Bishop Hriztostom, Bishop Vladislav and Bishop Valerijan of Shumadija, the Holy Assembly of Bishops in its recommendation decided to make a recommendation — I would like here to refer to the use of the word "recommended." "Recommended" does not mean in this case a possibility of an alternative, but a Bishop is not ordered, or a Synod is not ordered, so when the Holy Assembly recommends and uses the expression "recommends," this is a decision that it recommended to the Holy Synod that in accordance with the rules and procedures for Eccle-
[1403] siastic Courts of the Serbian Orthodox Church, to initiate proceedings against Bishop Dionisije.

Then the Patriarch recessed the meeting of the Holy Assembly of Bishops and immediately scheduled to follow that meeting — and scheduled for that meeting to continue in the afternoon, I believe somewhere around 4:30, and requested that the members of the Holy Synod remain so that it could act in accordance with the recommendation of the Holy Assembly of Bishops.

The Synod held a meeting in which it initiated proceedings against Bishop Dionisije, and since the content of the material was such, it placed him under

suspension of priestly functions, with a lessening of his remuneration to one-half.

And then in the afternoon, the meeting of the Holy Assembly of Bishops was resumed, or continued. There were speakers, and taken into consideration, and there were various opinions expressed, but they all agreed that the existing diocese be divided, some thought in two parts, some thought in three, but in no way for the former Bishop to remain, that he be assigned Vicars.

ABSTRACTED TESTIMONY RESUMED

1404 Due to the disagreement a vote was undertaken and a proposal adopted that the then American-Canadian Diocese be divided in such a way that from it the Eastern and Western parts be cut off and that the former diocese be reduced and considered the Mid-western Diocese. This diocese would be further headed by the then Bishop Dionisije.

1405 Because neither the committee nor the Holy Assembly was acquainted with the geographic or demographic arrangements in the United States no definite boundary lines were drawn distinguishing the three
1407 dioceses. It is my opinion that the reorganization of the American-Canadian Diocese by the Holy Assemby of Bishops was a Hierarchical act.

VERBATIM TESTIMONY

[1406] Mr. Jenner: Q. Your Grace, do you have an opinion as to whether the creation of, the reorganization or, or the division of a diocese or dioceses by the Holy Assembly of Bishops is a hierarchical as distinguished from an administrative act?

Mr. Snyder: I am objecting to that, if the Court please.

The Court: What is the objection, Mr. Snyder?

Mr. Snyder: I don't think that that is a canonical answer to a question; I think it is a legal question; it is a conclusion of this witness on a legal question. I think the Courts will decide that, not this witness.

The Court: I rule that the objection is overruled and he may answer.

Mr. Jenner: May we have the full question now, Father? The reporter will read it.

(Question read.)

[1407] Mr. Snyder: Just a minute.

The Court: First ask him to say Yes or No, does he have an opinion.

The Witness: A. Yes, I do.

Mr. Snyder: I would like to add the further objection that the Appellate Court has already passed upon that very question in the law of the case.

The Court: Well, nevertheless, I will allow him in this trial as an expert to give his opinion.

Mr. Jenner: May I, if your Honor pleases, I do not wish to by any silence on my part to accept Mr. Snyder's statement that this is an issue as to which the Appellate Court has fixed the answer by way of law in the case. I am ready to argue fully that point.

The Court: Very well.

Mr. Jenner: Q. What is that opinion, your Grace?

A. Repeat it to me again now.

(Question repeated by the Interpreter.)

The Witness: A. It is purely a hierarchical act.

Mr. Jenner: Q. Would you explain your answer please, and in doing so, cite, if there are, pertinent provisions of the Constitution and Canons?

Mr. Snyder: May my objection stand to this line
[1408] of questioning, your Honor?

The Court: Objection is overruled.

The Witness: A. That right is cited in the Constitution of the Serbian Orthodox Church. The Orthodox Church is an hierarchical church and that is an Episcopal church. The authority in the church belongs to the Hierarchy, both the authority of teaching, so also the authority of the powers of services and the dispensing of the blessings and graces, and so also the authority of government.

The faithful in the church, they are taught by the Hierarchy, they receive from the Hierarchy the gifts of the grace of the Holy Spirit, and the Hierarchy governs over them, all in accordance with the aims of the salvation of man.

But the Hierarchy, the Church in this sense, always takes care of its flock, and insofar as it deems it necessary, exercises that power and authority with the help of the clergy; that is, the priests and other ranks of clergy, and the faithful.

And the Church, the Hierarchy, in executing its rights, calls that or refers to that as the internal hierarchical or spiritual administration, and this belongs exclusively to its own rights and prerogative
[1409] according to the Holy Canons of the Church.

The material aspect of the administration is performed with the help of the faithful as helpers, as witnesses to the proper and correct administration and use of church properties. The entire church property is, and is fundamentally, entrusted to the Bishop who handles or administers that property through his Ecumen, as he is referred to in the ancient canons, that there would be a witness and that there would be no cause for criticism because God forbids some abuse.

As a Bishop, he has his helpers in the persons of priests and deacons. Priests administer over faithful who are entrusted to him in a territory which we call a parish.

The Church Congregation is likewise a gathering of faithful, and it is established for the purpose to provide the material means for the normal life of the church.

The pastor, or rector, because these are his faithful, together with him there, is the honorary president of the church, of the Executive Board of the Church Congregation, but the committee elects from
[1410] its members the President, Vice President, Secretary and so forth, and they all perform their duties within their term of office; that is, they remain at those duties during the term of tenure of their office, which could be for six years, or as long as necessary for them to accomplish their tasks; at least, this is the way these congregations are administered in Yugoslavia.

And they remain on their posts or positions as long as they conscientiously and faithfully execute their duties in administering those belongs of the church, properties of the church, for the benefit of the church and the faithful.

And if the committee refuses to carry out the decisions of higher authorities, or if there should be such disagreements among them which disturb and bring harm to the Church, the committee is dismissed and the priests are summoned by the Bishop's Deputy to make a proposal of names for a new committee.

I made this digression in order to show more clearly the hierarchical character of the Orthodox Church.

ABSTRACTED TESTIMONY RESUMED

The decisions of the Holy Assembly of Bishops determine whether there shall be any dioceses and if any what the geographical territory in each shall be.

There are three steps or ranks in the hierarchy of the Serbian Church; that of deacon, priest and bishop and by the laws of man each of these ranks have again several steps of position of honor.

The title Patriarch is an honorary one given to the Bishop of a Diocese whose territory includes the capitol of the state where the church exists and is therefore the principal see of the church. He has all the rights that other diocesan bishops have but is not an authority over other bishops. He has a vicar bishop who assists him in governing his diocese but he does not have any particular or separate rights other than those which belong to him by reason of the honor accorded to his function as president of the Holy Assembly of Bishops and he holds that title because the assembly is held in his diocese. A Bishop is appointed by all the bishops together and they can judge him and penalize him. In the Assembly of Bishops, the Patriarch has only one vote like every other bishop in the assembly. A bishop who is absent with cause may authorize another bishop to vote for him only in the event that a bishop is going to be elected. All of the decisions are rendered by a simple majority of the bishops present. The church is organized first into parishes which are the church congregations. Then there is the diocese which is led by a bishop and has an ecclesiastical court. The bishop is the judge and he has helpers who assist him in rendering a just decision. For the material needs of the church there is the diocesan council whose president is the

Bishop. The diocesan executive committee executes the decisions of the diocesan council and handles all the affairs of the diocese with regard to material aspects. In the absence of the Bishop, the Vice President presides over those two bodies and all decisions rendered when the Bishop was absent must be submitted to the bishop as the president for his approval. When a Bishop is suspended, a priest is immediately appointed who performs the most necessary church functions until the conclusion of the Bishop's case. If the Bishop is relieved of his duties as diocesan bishop, a priest is appointed to administer the most important matters of the diocese. In our assembly of bishops, a decision has been rendered based on the Holy Canons that the administrator cannot during the time of his administration appoint permanent clergy or give the clergy decorations or give a priest permanent tenure on a parish. He cannot transmit anything from his diocese into another diocese with regard to property. The budget of the diocese and the concluding accounts of the diocese and all lessor decisions concerned with the acquisition and selling depend on the amount in question which is submitted to the Patriarch for final approval. Therefore, so just as in the diocese there are these two areas of administration; that is the internal government and the external for the administrative needs, so also in the church there exists corresponding bodies. The highest body in the church is the Holy Council of Bishops which is an executive organ performing those duties and functions given to it by the Assembly. The Holy Assembly is the legislative, judicial and executive authority in the church. Its executive function is fulfilled through the Holy Synod and material needs are cared for by the Patriarch executive com-

1425 mittee. Metropolitanate system did not exist in our
1426 church after the war. The Metropolitans that exist in the Serbian Orthodox Church today hold that title merely in an honorary role and have no power other
1428 than that as a Bishop. The Holy Assembly does not need the consent of a particular Bishop to reorganize his diocese.

1429 There is no distinction between dioceses in Yugoslavia and dioceses outside of Yugoslavia insofar as the right of the Holy Assembly of Bishops to reorganize them without the consent of the Bishop.

VERBATIM TESTIMONY

[1427] Q. Is the consent of a diocesan bishop required for the reorganization by the Holy Assembly of Bishops of his diocese?

Mr. Snyder: Objected to, if the Court please.

The Court: Read the question.

(The question was read by the reporter.)

The Court: What is the objection, Mr. Snyder?

Mr. Snyder: There are two types of dioceses involved, if the Court please; there's the diocese which we're primarily interested in here now. The Serbian Eastern Orthodox Diocese for the United States of America and Canada and the diocese in Yugoslavia which he talked about at great length and this question
[1428] is referring to all dioceses and I'm objecting to that.

Mr. Jenner: Yes, it does refer to all dioceses.

The Court: First of all, dioceses under the Mother Church, I presume.

Mr. Jenner: That's right.

The Court: I will allow it to be answered on that basis.

(The question was read by the reporter.)

The Witness: It can do this without his consent.

[1429] Q. * * * [I]s there any distinction between dioceses in Yugoslavia and dioceses outside of Yugoslavia insofar as the right of the Holy Assembly of Bishops to reorganize without the consent of the bishops is concerned.

* * *

The Witness: No kind. There is no kind of distinction at all.

ABSTRACTED TESTIMONY RESUMED

1431 Priests cannot be transferred from one diocese to another. However they may move if the priest who wishes to go writes an application to the Bishop of the Diocese where he would like to live and directs a petition to his own bishop. If his Bishop wishes to allow him to go he forwards that petition to the Bishop of the Diocese where the priest would like
1432 to go with a report that he is willing to give this priest a release from his Diocese if the other Bishop is willing to receive him. If it is acceptable to both, then the priest is given a canonical release and may go to the other diocese. A Bishop may not leave his own diocese and then go to another on his own. Only
1433 the Holy Assembly of Bishops may elect a bishop to a diocese and he can be elected to another on the condition that that diocese to which he would like to go is canonically vacant. A Bishop need not be
1437 accepted by a council or other similar body in the Diocese before commencing his duties as diocesan
1438 bishop. Since the Holy Assembly appoints the Bishops as part of its function as supreme body of the church, this applies to all dioceses including the Canadian American Diocese. The Holy Assembly of

Bishops of the Serbian Orthodox Church is charged with the duty and privilege of interpreting the constitution, the canons and the penal code of the Church. No other body whether committee or otherwise has
1439 that privilege and duty. The usual procedures for the election of a Bishop were utilized in the selection of the bishops for the two newly created dioceses in the reorganized American-Canadian Diocese.

VERBATIM TESTIMONY

[1439] Q. You have related to us the matter, the procedures respecting the election and appointment of a diocesan Bishop. My question to you now is: what procedures were followed in the selection and election of the Bishops for the two newly created dioceses and the reorganized American-Canadian diocese?

A. The same.

Q. Were you present on that occasion?

A. Yes, Sir.

Q. Do you recall when that was by way of date?

A. The formation of the new dioceses was on May 10th, and on that day it was confirmed that on the Midwestern American-Canadian diocese remains Bishop Dionisije.

On the next day, on the 11th, for the Eastern diocese, Archpriest Stevan Lastavica was elected, and on the 27th of July, I believe, Bishops Firmilian and Gregory were elected.

Q. Now, who was elected Bishop of the Eastern American-Canadian diocese?

A. Archpriest Stevan Lastavica. I believe he was at that time a priest in Windsor.

ABSTRACTED TESTIMONY RESUMED

1440 When the Holy Synod suspended Bishop Dionisije at its meeting during the recess of the Holy Assembly, they took further action of appointing Archimandrite Firmilian as administrator of that diocese. A diocese cannot separate itself from the Serbian Orthodox Church and declare itself autocephalous. In order for a part of the Mother Church to be proclaimed as autocephalous, it must first fulfill the basic conditions that it is capable of independent, correct ecclesiastic life, church life, and that it is capable of living the independent church life that the church requires. The part of the church wishing to separate must formally seek separation from the
1441 Mother Church and demonstrate that it has at least four Bishops and after the Mother Church has evaluated the justification for the request it may agree to the separation. The four Bishops must have been selected and appointed by the Mother Church through
1450 the Holy Assembly. The Diocesan Bishop of the Serbian Orthodox Church may select, appoint and ordain a priest independently of the Holy Assembly.
1452 A Bishop scrutinizes the candidates who are responding to the need of a particular parish and will appoint one the permanent pastor of that parish. A permanent pastor can be removed from his parish if he does not accept the duties within a period of 15 to 20 days, or if he does not return from a vacation within 15 days after it should have ended, or if his parish extinguished or consolidated with another parish, or if he is penalized with loss of his parish or with transfer. The Holy Assembly of Bishops is not formally informed of the appointment of a priest to a parish. However, in the office of the Patriarchial Executive Committee, an index card of all clergy is kept.

In the administration functioning of a diocese there are no Sabors or Assemblies of clerics or lay people. A distinction exists between dioceses in Yugoslavia and dioceses outside of Yugoslavia regarding the role of laymen-cleric diocesan Sabors. The church in Yugoslavia and the dioceses therein are administered by the regulations of the constitution of the Serbian Orthodox Church while these three dioceses in America are administered by the particular by-laws of their own. The three dioceses in the United States and Canada are subject also to the constitution of the Serbian Orthodox Church. Reorganization of the Canadian American Diocese and the creation of two additional dioceses only affected the ownership of the assets insofar as certain monasteries and churches happened to be in the territory of the respective dioceses. To complete the structure and reorganization, it is necessary that the Bishops of these three dioceses, with their church national assembly, establish boundaries and discuss all other matters which flow from that decision of the assembly concerning the division of that diocese, and that all decisions be submitted to the Holy Assembly to be accepted and approved. Insofar as I know, such a meeting was held but nothing definite was submitted to the Holy Assembly. When I arrived with the delegation in 1963 we advised Bishop Dionisije that we would be in Libertyville on July 5th to hear his response to the charges made against him. We advised Bishop Dionisije that we were coming and what the purpose of our mission was in writing after our arrival in America. We arrived around 11 o'clock in the morning on July 5th at the Monastery. When

we arrived at the Monastery we first went into the Church and after that Bishop Dionisije appeared at the top of the stairs dressed as ready to leave with a hat on his head and he approached us and said "Should I exchange greetings with you or not?" We were escorted outside and sat in our car and about 15 people accompanied us to an Inn which we were told was called the Indian Club. We did not have any baggage when we arrived at the monastery. When we entered the restaurant we told them that this was not usual for such proceedings, but we endured it so as not to be offensive. We asked and sought that those who were accompanying Bishop Dionisije be seated to the side and not attend our discussion with the Bishop. The group sat at a long table by a window and we sat in a booth. We told him that we had come to talk with him about all the accusations and charges against him, but from the very beginning we had the impression that their feelings toward us were of complete indifference. Bishop Dionisije's deportment toward us was similar and he joked and laughed and said that he would not reply to any of our questions if we did not submit them to him in writing and that he would stand on this position. We saw that there was no longer any reason for further official discussion and we proposed that we write minutes concerning the meeting. The Bishop agreed to that and Bishop Hrizsostom began to record the minutes of the meeting. Bishop Dionisije also participated in the writing of these minutes by saying, "Also add this in the minutes that I stand by all those things which I have written and declared concerning those decisions of the Holy Assembly of Bishops." In concluding the minutes Bishop Hrizsostom sought Bishop Dionisije to sign them first since he was the

Sr. Bishop among us. He stated in response "Now I will not sign them" and that is why the place for his signature is left blank. We arose and went into the other part of the hall. We were not accustomed to being mistreated in any way and we could not allow
1464 just anyone to consider us as nothing. They took us by the long table among those who were accompanying him and placed me all the way against the wall near the window and then they began with various types of discussions and stories about what it was like in Yugoslavia and demonstrated how little importance they attributed to our official function. As they posed various types of questions I replied to them and they saw that this was not the type of discussion they were expecting and one by one began to get up and leave with different excuses. In order that Bishop Hrizsostom and I not be the only ones remaining we made our excuses and left.

1465 I have examined PX 82 which is written in the hand of Bishop Hrizsostom of Branichevo and these are
1466 the longhand minutes to which I made reference. I am familiar with the two signatures which appear on the second page just above the certification of the supreme secretary of the Holy Synod and they are the signatures of Bishop Hrizsostom and myself. Fol-
1468 lowing the meeting with Bishop Dionisije, we went to Milwaukee in the company of Archpriest Mladenovich and Bishop Bozo who accompanied us from Yugoslavia. We went to Milwaukee because we re-
1469 quired church quarters to perform our work. When we arrived in this area we did not have lodgings in the monastery because Bishop Dionisije would not accept us. We stayed in a hotel in Gary and from there
1470 came to the meeting with Bishop Dionisije. Hospitality was extended to us in the parish rectory in Mil-

waukee and we went there and used their paper and typewriter and did what we deemed necessary in the interests of the Serbian Orthodox Church. We compiled a communication which we reproduced and sent to parishes throughout the communities in America and Canada. We were aided by our host, Archpriest Father Brkich and Bishop Firmilian and others who happened to be there. PX 17A is that document
1471 which was drafted by myself and Bishop Hrizsostom. It bears my signature and verification with the seal of the Holy Synod of Bishops by the secretary Father Mladenovich. It was originally drafted in longhand and then typed. We left Milwaukee the same day
1472 and went to Aliquippa, Pennsylvania, to visit Bishop Gregory. I eventually returned to Yugoslavia after having consecrated Bishop Stefan. When I returned I was not accompanied by Bishop Hrizsostom. I at-
1474 tended the meeting of the Holy Assembly of Bishops on July 27, 1963, and prior to that meeting I submitted the report and materials that I brought from the United States.

1475 Among the documents I presented to the Synod were the complaints and accusations and announcements and proclamations and various printed materials that we had obtained here. We didn't open these documents because of the declaration of the then Bishop Dionisije that he didn't recognize anything or acknowledge anything of those and they automatically assumed a secondary importance.

VERBATIM TESTIMONY

[1474] In due course, did you attend—did you attend the meeting of the Holy Assembly of Bishops on July 27, 1963?

A. Yes.

Q. Prior to the meeting of the Assembly on July 27, 1963, did you submit anything to the Holy Synod or to the Holy Assembly of Bishops?

A. We submitted all the—that which we brought with us I returned again to the Holy Synod together with our report.

Q. Was your report in writing?

A. Yes.

Q. The communique, as it is so entitled on Plaintiff's Exhibit 17A for identification, was that transmitted to the Holy Assembly of Bishops and/or the Holy Synod?

A. Yes.

Q. Give me your best recollection as to the documents that you had brought to America and which you have just told us you returned to the Holy Synod or the Supreme Secretary. In so doing, you don't have to tell us the details of the contents of the documents, but identify them sufficiently so we know what
[1475] documents you have in mind.

A. First of all, all of the complaints and accusations which the Holy Synod received, and announcements and proclamations and various printed matter which we obtained here, and all of this was returned together.

Those documents which we brought we didn't even open them because of the declaration of the then Bishop Dionisije, that he doesn't recognize anything or acknowledge anything of those and they automatically then assumed a secondary importance, they were no longer a primary matter in this case, and we didn't at that time look at them or read them, but they were all forwarded to the Holy Synod and they were all read in the minutes of the Holy Synod and Assembly.

ABSTRACTED TESTIMONY RESUMED

1476 I was given the floor at the Holy Assembly meeting and I orally told the Assembly and Synod everything we had experienced here in America indicating to the Assembly all those documentations which verified that which I was reporting. The Patriarch took
1477 the floor and brought out the subject matter under consideration and recalled to the Assembly that all of this material was known for quite some time to the members of the Holy Assembly and that now they had become acquainted with newly arrived declarations and statements, circulars and printed things which had bearing on the new stand and position of Bishop Dionisije and that everything was clear and it was necessary that the decision be rendered concerning the subject. Standing, the Patriarch asked the Holy Assembly "Does the Holy Assembly of Bishops consider Bishop Dionisije to be guilty?" The Holy Assembly replied, "He is guilty." Then the Patriarch asked each member individually if he con-
1478 sidered Bishop Dionisije guilty and beginning with the youngest in honor to the last all clearly stated that he was guilty. Then the Patriarch inquired of the Assembly whether they accepted the proposal of the church court prosecutor that Bishop Dionisije be defrocked of his episcopal rank and the assembly responded that it accepted the proposal and again the Patriarch called on each member individually to express himself and each stood and said yes that they accepted the recommended penalty. In order to put an end to all comments the Holy Assembly had to express itself 4 times on that subject, twice concerning the guilt and twice concerning the penalty. The Patriarch then declared Bishop Dionisije defrocked

and returned to the rank of layman. The minutes
1479 were recorded and signed and the business was concluded.

1480 This event took place on the 5th of March in 1964 and I confused the two dates. On the 27th 1963 after it
1481 heard all the reports both oral and written the Holy Assembly of Bishops rendered a decision that Bishop Dionisije definitely be relieved of his duties as Diocesan Bishop of the Midwest Diocese. It proclaimed the Diocese vacant and elected Archimandrite Firmilian to fill that vacant post as diocesan Bishop and that Archimandrite Gregory Udicki be elevated to Bishop for the Western American Diocese. PX 74A, 75A, 76A, 77A, 78A, 79A, 80A, and 81A are familiar to me and they were all presented or read to the Holy
1482 Assembly of Bishops during its meeting held on July 27, 1963.

1485 I have read PX 58A and 4D and can state that the signature appearing on the bottom of each is Bishop Dionisije. Exhibits 58A and 4D were read to the Bishops during the course of the meeting of the Holy Assembly on May 10, 1963. I was not a member of
1486 the Holy Synod in 1963. We had sealed documents in
1488 our brief cases at the Indian Club Restaurant and our meeting with Bishop Dionisije. The documents
1489 contained accounts of things that had happened and which Bishop Dionisije had taken part and had caused the Holy Assembly and Holy Synod to start proceedings against him. Among those documents were complaints that had been received up until that time at the Patriarchate in Belgrade. In our meeting at the
1490 restaurant we never displayed these documents to
1491 him. We did not display them because of Bishop Dionisije's attitude toward us. At the very begin-

ning of our talks the Bishop stated that he did not want to answer anything that was not given to him in writing. We had received instructions to discuss orally these problems with him first and when he refused to do that and added openly and clearly that he did not recognize the decisions of the Holy Assembly and the Holy Synod by that very act he com-
1492 mitted offenses which put him outside of the church.
1493 I believe the indictment against Bishop Dionisije was filed in October or November of 1963. The indictment was considered by the Holy Assembly on March 5, 1964 and I attended that meeting.

1495 A copy of the indictment was delivered to Bishop Dionisije but he did not respond either orally or in writing to that indictment. A communication was received from the Bishop with respect to the indictment and as far as I remember he asked for an extension of the date for reply. As far as I can remember the extension was given to him for that reply. I do not
1496 know if Bishop Dionisije made further reply.

1497 Having read PX 21A at page 19 my recollection is
1498 refreshed and I recall that the subject matter of the return of the indictment by Bishop Dionisije was discussed in the course of the meeting on March 5, 1964. I cannot answer specifically whether Bishop Dionisije's letter of January 25, 1964 was read to the bishops during the course of the meeting on March 5, 1964 but all related documents were read. The decision of
1500 the assembly on that date was signed by all the members who were in attendance that day. It is my opinion that under the constitution, the canons, and the customs and practices of the Serbian Orthodox
1501 Church notice is not required to be given and is not given in the case of the suspension of a Diocesan

Bishop. I believe article 219 of the constitution substantiates this.

Cross Examination.

Prior to May 10, 1963 there were 23 dioceses in Yugoslavia and 3 outside of Yugoslavia. There was a bishop for each of these dioceses. Each diocese is an area within which the faithful live and which is entrusted to the care of one bishop. A bishop is appointed for an unlimited period until one of the reasons which are enumerated in the constitution arises. The Holy Assembly can relieve a bishop if he loses one of the conditions upon which he was elected or if he is in ill health or if he submits a justified application to be retired. This all falls under the heading "To relieve from duty" but there is another term for which someone might be removed and that is the ground of canonical judgment. Section 104 of the Serbian Orthodox Church Constitution relates to the qualifications of a bishop. A bishop is appointed for life subject to one of the conditions under article 111 arising. On May 10th, 1963 there was no *diocesan of Bishop* appointed for the Western American Diocese with its see at Los Angeles. Bishop Gregory Udicki was elected as bishop of that diocese on the 27th of July of 1963 subject to the provisions of article 104 and 111 of the Serbian Orthodox Church Constitution. The word "Sabor" means a meeting of the Holy Assembly of Bishops for the Serbian Church. Bishop Gregory did not attend this year's Sabor but was at the previous one.

Last year's Sabor, 1968, was conducted during the month of May. This year it started on May 12th. Bishop Gregory did not attend this year's Sabor but

gave his reasons in writing. A diocesan bishop was appointed to the Middle Eastern American Canadian Diocese with its see in Detroit. I don't know which diocese that is. When three dioceses have been formed Bishop Dionisije was left in that diocese. I don't recall if that was the name of that diocese at that time. On May 11th, 1963 Bishop Stevan Lastavica was elected as bishop of the Eastern American-Canadian Diocese for life subject to articles 104 and 111. Subsequently he died but I do not recall if a successor bishop was appointed to the middle Eastern American-Canadian Diocese with its see in Detroit. The Bishop that succeeded Stevan Lastavica was Dr. Sava Vukovic. Bishop Sava has attended the Sabor both the previous year and this year. Bishop Sava was appointed to this diocese for life subject to article 104 and 111 of the Serbian Orthodox Church Constitution.

Firmilian Ocokoljich is today the diocesan bishop of the Middle Western American Diocese. He was appointed together with Gregory on July 27th 1963. Bishop Firmilian was appointed for life subject to the provisions of article 104 and 111 of the Constitution of the Serbian Orthodox Church. Bishop Firmilian attended the Sabor of the previous year, that is 1968 but not this year. He gave a written reason for not attending but I do not know what it was. I do not know if Bishop Firmilian attended a Sabor in '64, '65, '66 or '67. I attended the Sabors in '64, '65, '66 and '67. I do not believe Bishop Stevan attended the Sabor during his lifetime. I do not know if Bishop Sava attended any of the earlier Sabors. I only know about '68 and '69. I believe 20 bishops attended the Sabor of 1964. I do not know how many attended in

1965. I do not know how many Bishops were eligible to attend the Sabor in 1965. In 1965 in addition to the Dioceses in Yugoslavia there were two in Hungary and Rumania and there existed three in America. In 1965 I would say there were less than 30 diocesan bishops eligible to attend the Sabor. I believe this would be true for the 1966 and '67 Sabors. I first attended a Sabor in 1952 and have attended all sessions since that time. I knew almost all of the diocesan bishops well during that period. The Bishop I knew least well was Bishop Dionisije. There was no one else that I wasn't well acquainted with during the period.

The Western American-Canadian Diocese is under the Serbian Orthodox Church Constitution and hierarchical respect. It is not under the Serbian Orthodox Church Constitution in the affairs of the external church government. These are affairs which are taken care of by the parochial executive boards and the higher diocesan and patriarchical. The higher diocesan and patriarchical are the diocesan executive board and council and the patriarchical executive board. The patriarchical executive board sits in Belgrade. The Patriarch is chairman and two members of the Synod are members as well as laymen. The laymen are selected from the vice-president of the diocesan executive boards and several are chosen at random. I do not recall how many laymen are on the patriarchical executive board. Article 95 of the Serbian Orthodox Church Constitution describes the diocesan executive board and article 92 describes the patriarchical executive board. The patriarchical executive board handles matters enumerated in article 110. Article 101 speaks generally in regard to matters which are part of the jurisdiction of the patriarchical executive board. The patriarchical council has never considered any matter referred to it by the Western American Diocese. I do not know about the Eastern American Canadian Diocese. The jurisdiction of the patriarchical council is now taken over by the Holy Assembly of Bishops. This was not prior to 1947 but I do not know if it was prior to 1958.

The Sabor would only handle matters formerly handled by the patriarchical council concerning the Western American Diocese if they were of a hierarchical nature. Other than the constitution of the Serbian Orthodox Church the Western American Diocese uses the constitution of the Serbian Eastern Orthodox Diocese of the United States and Canada. It was not necessary that the reorganization of the American-Canadian Diocese be approved by the patriarchical council as the Assembly of Bishops undertook it. The patriarchical council did not approve the reorganization.

The three new dioceses, the Middle Western American Diocese, the Western American Diocese, and the Eastern American-Canadian Diocese occupy all of the territory which formerly comprised the American-Canadian Diocese. A bishop of one of these dioceses does not have authority in any one of the others. The constitution of the Serbian Orthodox Church includes a list of all the dioceses outside Yugoslavia and in article 15 a change was made at the last session of the Holy Assembly in that the names of the Eastern, Midwestern and Western American Dioceses were added as Dioceses within the Serbian Orthodox Church in the spiritual and hierarchical respect. There is no

provision in the constitution concerning one diocese being controlled by a constitution other than the constitution of the Serbian Orthodox Church. Article 15 of the Serbian Orthodox Church constitution was amended at the 1969 Sabor. As far as I know the article had not been changed during the 10 years preceding the Sabor of '69. There is more than one church school congregation in the Western American Diocese. I do not know if they have a Sabor in that diocese. I do not know if any matter has become before the Serbian Orthodox Church Sabor from the Western American Diocese. I do not recall if any matter has come before our Sabor since May 10, 1963 from the Eastern American-Canadian Diocese. I arrived in the United States on June 28th, 1963, arriving in New York. I do not remember where we went on June 29th. We made our stay in the Hotel New Yorker. I don't remember where we went on June 30th. I recall we were at Clarendon, Pennsylvania but I do not recall when that was. I do not recall where I went on July 1st. I do not recall where I was on July 2nd or 3rd although I was in Gary and in Chicago but I do not remember when. I do not remember when I arrived in Chicago exactly. During the period from June 28th to July 4th 1963 we did not make any investigation with reference to the charges made against Bishop Dionisije. I do not remember where I was on July 4th, 1963, but probably in Gary. I am acquainted with Mr. Stepanovich, the diocesan legal counsel but I do not recall when I first met him. I do not recall if I met him at the residence of Father Dusan Popovich in Chicago on July 4th of 1963. We had a meeting with Mr. Stepanovich, Mr. Seferovich and Mr. Marovich in a hotel

room in Chicago. In addition to those three gentlemen Bishop Hrizsostom, myself and some others who I do not remember were present. I believe Father Firmilian was there but I do not recall Father Lastavica or Father Brkich or Milan Drubak being there. I do not recall an attorney from Milwaukee being there. The subjects discussed concern the affairs and situations connected with Bishop Dionisije. There was probably a discussion concerning a Sabor of the American-Canadian Diocese to be held in August of 1963. I do not recall a disclosure to me that the American-Canadian Diocese Sabor of 1960 had delegated to Bishop Dionisije and the Plenum the right to call the Sabor in 1963. I do not recall being told that the original Sabor in 1963 was called for October, but following the difficulties caused by the action of May 10, 1963, the Plenum unanimously voted to advance the date of the Sabor to August. About these matters I recollect nothing. It is possible that a question was asked of Bishop Hrizsostom, "Is our action in calling our Sabor in August legal or not?" I do not recall hearing an answer. I do not recall Mr. Stepanovich directing a question to Father Firmilian, "If the Sabor is legal, Father, then why are you boycotting the August Sabor?" I do not know whether a tape recording was made of that meeting. I do not recall Father Firmilian stating at that time, "I am not boycotting. My Church in Pittsburgh is electing delegates. We don't know whether to elect one or two. We are not boycotting the Sabor." I do not recall that Bishop Hrizostom asked for that meeting. I allow that there might have been a registered letter sent requesting that meeting. I have never heard that there were any written requests by me personally

or to the church to nominate and consecrate Father Lastavica as bishop. I do not recall having stated at that time that there were three candidates for bishop. I do not recall at that meeting in Chicago saying that I had written to Belgrade asking a special emergency Sabor be called, and that I recommended that Father Firmilian and Father Udicki be elevated as bishops. The proposal that Firmilian and Udicki be elevated as bishops was by the patriarch at the proper time. I do not recall having stated at the Sherman Hotel at that meeting that "first order that we had was that there be two administrators and one bishop, Father Lastavica to be bishop." Concerning the statement, "in the meantime when we arrived here and found the climate as it was we wrote to Belgrade and asked for a Sabor to be called and the elevation of two bishops."

We did write and request the Diocese be filled with a bishop. When Steven Lastavica was elected on May 11, it was left then to elect two more for those dioceses which were not filled when Dionisije was relieved. On the 4th of July, 1963, Bishop Dionisije had not been relieved. The only widowed diocese was a newly created diocese of the West, and then Bishop Dionisije was under the bond of service and he was relieved only later. At the time of that meeting we could not definitely talk about anything of that kind, because Bishop Dionisije was still in charge of the diocese and was not to be relieved until the 26th or 27th of that month. Bishop Dionisije was not head of the Eastern Canadian Diocese at that time, July 4, 1963, and no one was in charge. The Diocese was divided into three parts and Bishop Dionisije remained in Midwestern Diocese. Gregory Udicki was administrator of the Eastern American-Canadian Diocese on July 4, 1963. I do not recall that during the meeting at the Sherman Hotel on July 4, that I told Mr. Stepanovich that Bishop Dionisije would not permit me to go to the monastery. I do not recall that Bishop Dionisije ever by word or by letter told me in my delegation that we could not go to the monastery in Libertyville. I believe Mr. Stepanovich at that time in the Sherman Hotel told me, "You come to the monastery at eleven o'clock tomorrow and we will guarantee that there will be no incident."

We went to the monastery the next morning at eleven. When we arrived we went to the church and found a little Monk who was doing something with the candles and we asked him to bring us to someone from the Monastery. I believe he did so. I did not know all the priests who were there, but I remembered Father Radanovich whom I had known in Belgrade. Father Alexandria Dimitrevich was there and I had been his superior in Belgrade. I believe Dr. Seferovich was there, as was Mr. Stepanovich, and probably Mr. Marovich, but I do not recall for sure. It is the custom in the Serbian Orthodox Church for a Bishop to greet another Bishop by kissing him. I do not recall that Bishop Dionisije kissed both of us, but I can recall that he said, "Should I exchange greetings with you?" We exchanged greetings, but I do not know if the greeting was that of a Bishop's kiss to another Bishop as I personally very seldom do that. I do not recall who suggested that we go to the restaurant. We heard that the name of the restaurant was the Indian Club, but I have never heard of the Rustic Manor. While Bishop Dionisije, Bishop Hrizostom, and I were in a private room in the res-

taurant, Mr. Stepanovich came to the door and asked
1562 if he could be of help. I do not recall that later Dr. Seferovich and Father Marstovich likewise came to the door and offered to give us help. I do not recall saying to Mr. Stepanovich, "Bishop Dionisije wants the questions to be directed to him in writing; he is also insisting that the charges be shown to him so that he knows of what he is charged." I believe we deliberated in this room for about a half an hour.
1563 I did not recall that Mr. Stepanovich asked me if I
1563 were author of the Penal Code and my answer was yes to that question. I do not recall Mr. Stepanovich further saying to me that it was strange that even in the Soviet Union or Tito's Yugoslavia whenever you are charged in any matter they tell you what you are being charged with. This occurred after I left the
1565 room in which I had been conferring with Bishop Dionisije. I do not recall if it was Mr. Stepanovich who said to me at that meeting, "You have caused a great confusion among us gentlemen. We are in America; we are in a country where man is innocent until he is proven guilty; we are in a country where every man has his rights, where he has some recourse to protect his rights." I heard this at the July 5, 1963
1566 meeting we are talking about. The Constitution of the
1567 Serbian Church was in effect on July 5, 1963.
1568 The Eastern American-Canadian Diocese does not have a separate constitution. It is under the Serbian Orthodox Church Constitution in the hierarchical and spiritual aspects. It is still under the constitution of
1569 the former American-Canadian Diocese. The Constitution of the American-Canadian Diocese is still
1571 in force and effect. I do not know if any action has been taken since May 11, 1963 by the Holy Assembly

of Bishops in regards to the Constitution of the American-Canadian Diocese. I do not know if the
1572 American-Canadian Diocese has since May 11, 1963 asked for any changes in their Constitution.
1576 I was appointed to the delegation which came to the United States on June 28, 1963, pursuant to provision #67 of the rules and procedures for ecclesiastical courts. This is the Penal Code. Our purpose in coming to America was to verify and investigate the matter, conduct hearings which were deemed necessary and appropriate, and to gather evidence. I do not recall taking testimony of any witnesses in the United States against Bishop Dionisije prior to our meeting with the Bishop on July 5, 1963. I do not
1577 believe we made any investigation of the charges against Bishop Dionisije before our meeting on July 5. I do not recall how many complaints Bishop Hrizostom and I had in our control or possession against Bishop Dionisije on the 5th of July. These complaints were not in sealed containers, but were carried in our briefcases. I do not recall if I had
1578 read the complaints. We probably kept those complaints in the briefcase when we went to the Rustic Manor. I do not recall if I locked the complaints in the automobile outside of the restaurant. I do not recall whether I took the briefcase into the restaurant.
1579 I do not recall whether Bishop Dionisije asked me to see the charges against him on that occasion. The conversation at this meeting was of a general nature because Bishop Dioniisje did not attach any significance to the meeting. I do not recall the conversation
1580 specifically. He probably stated that he did not consider himself Bishop of the Midwest American Diocese. He declared that he did not recognize the de-

cisions of the creation of the new diocese, nor the decisions of the Holy Assembly of Bishops of the Synod, and thereby the creation of the three dioceses. Thereby he put himself outside the Serbian Orthodox Church, and consequently he also officially declared he did not recognize even that he is a Bishop of that
1581 Diocese. We decided no further hearings were necessary with him after he declared all that was previously stated. I do not recall if I conducted any hearings
1582 following my meeting with Bishop Dionisije.

1585 Following the July 5, 1963 meeting, the Delegation did not take any action to verify or investigate any of the charges made against Bishop Dionisije, as it was no longer necessary. I do not recall that the Delegation following the July 5, 1963 meeting conducted any hearings with reference to the charges or conduct of Bishop Dionisije. We did not gather any evidence relating to the charges following that meeting, but received that which was given to us and for which we came. I do not recall what we re-
1586 ceived, nor whom we received it from, nor when we received it.

1588 After the July 5 meeting, we went to Milwaukee and issued an announcement. I then went to Shadeland, Lackawanna, New York, where I elevated Stefan Lastivica to the rank of Protosyngelos, and finally to Aliquippa with Bishop Hrizostom, where we consecrated Lastivica as a Bishop. The rest of my activities during this period are of a private nature. The activities which I just related were one of the objectives of my mission in this country.

1594 No prosecutor was appointed by the Holy Assembly in connection with the charges against Bishop Dionisije prior to July 5, 1963. Article 67 of the

Penal Code was in force and effect on July 5, 1963.
1596 There are no provisions of the Constitution or the Penal Code which requires the examination of an accused in a church building. There was something said about the fact that a large celebration including King Peter was scheduled for the Monastery on July 4, 1963, and that the Monastery would be in disarray and not properly cleaned up in time to receive me and the Delegation in a proper manner.

1597 I do not recall that prior to July 7, 1963, anyone had charged Bishop Dionisije with violating his Bishop's oath or Article 10, 15 and 17 of the Serbian Orthodox Church Constitution. I do not remember
1598 any charges in writing against Bishop Dionisije prior to July 7 with reference to violations of his Bishop's oath or Article in the Penal Code. The
1599 Proclamation of July 6, 1963, is marked as PX 17A and the basis of that Proclamation was the conversation and meeting had with Bishop Dionisije on July 5, 1963. I do not recall that Bishop Dionisije requested members of the Diocesan Council be present while I examined him. I do not recall anyone having
1600 threatened me or any member of the Delegation at the Rustic Manor, but many of them were not courte-
1601 ous towards us. While we were at the Monastery I recall no threats of physical harm against any member of the Delegation. There is no provision in the
1602 Constitution of the Serbian Orthodox Church or the Penal Code which requires that hearings or charges made against a Bishop of that Church be held in secret. Bishop Dionisije probably requested that the attorney for the Diocesan Council of the American-Canadian Diocese be present while we examined him.
1604 Mr. Stepanovich, the legal counsel for the Serbian

Eastern Orthodox Diocese of the United States of America and Canada. Either Bishop Hrizostom or
1607 myself certainly said that Bishop Dionisije could not have legal counsel because this does not exist in the Serbian Church in ecclesiastical litigations. I do not recall if Mr. Stepanovich came into the room and then was asked to leave. Perhaps he was, perhaps he wasn't.

1610 It was not unusual for our Commission to issue a Proclamation to the faithful and all the churches of the diocese prior to making a report to the Holy Synod of Bishops, because we are authorized by the Holy Assembly to do what was necessary with regard to the subject of Bishop Dionisije and to undertake everything we deemed appropriate on location in the interest of the Serbian Orthodox Church and its authority and dignity. Because we established completely that Bishop Dionisije renounced obedience to his Church and refused to comply with all of the decisions of the Holy Assembly and Synod, and had violated his episcopal oath, we felt that Proclation was appropriate. Our written orders briefly
1611 stated the essence of the matter the Delegation was to investigate and other instructions were orally given to the Commission. No one gave us oral authority to issue the Proclamation of July 6, 1963; however, we were authorized to undertake that which we deemed appropriate and we deemed it so appro-
1613 priate. The act in writing given to us gave us general authority to do what was appropriate.

1619 I do not recall that the Diocesan Sabor of the Serbian Eastern Orthodox Diocese of the United States of America and Canada at any time requested a division of the diocese into three parts. I cannot re-

1620 ply with a yes or no as to whether or not Bishop Dionisije or any representative of the American-Canadian Diocese ever requested a division into three dioceses.

1621 The Western American Diocese has a Diocesan Council and an Executive Board, but I do not know if it has an Educational Board. The Western American
1622 Diocese has a Church Court. Everything that applies to the Western Diocese also applies to the Eastern American-Canadian Diocese and the Middle Western American Diocese.

1626 There is nothing in the Constitution of the Serbian Orthodox Church which requires or authorizes the issuance of the Proclamation my Delegation issued on July 6, 1963. Similarly there is nothing in the Penal
1627 Code authorizing such a Proclamation. I believe Bishop Firmilian was present in Milwaukee at the distribution of the Proclamation as was Father Burkich. At
1629 the time I issued the Proclamation of July 6, 1963, in Milwaukee relating to Bishop Dionisije, the Holy Assembly of Bishops had not voted on the guilt or innocence of the Bishop. The Holy Synod had not voted on the guilt or innocence of the Bishop at that time. Neither the Holy Assembly nor the Holy Synod had voted on a punishment for Bishop Dionisi-
1631 je at that time. The charges against a Bishop are submitted to the Holy Assembly of Bishops of the Church and not to the people. Although Article 70 of the Serbian Church Constitution provides that the Holy Bishop's Synod is the Court of first instance for Bishops, this is no longer the case. All Bishops of a Church are judged by all the Bishops of that Church if they are all present in regular session. If they are not, then at least twelve should

come to the session. I was not a member of the Synod in 1963. In 1963 the Constitution stated that in the first instance, canonical offenses of a Bishop are judged by the Holy Synod. That Constitution was in
1632 full force and effect during 1963 and though this was written there it was never applied. PX 63b at Article 70, Section 35, is a portion of the Constitution that I referred to.

At the July 27, 1963, meeting of the Holy Assembly of Bishops, Bishop Dionisije's guilt was not in ques-
1633 tion. At that particular meeting deliberations were not held concerning his guilt or charges, but whether with the subject relating to his violation of his episcopal oath whereby he lost the conditions required for a Diocesan Bishop. No canonical verdict was rendered, but a decision to relieve him of the position in the church. No punishment was given to Bishop Dionisije but measures were taken in the interests
1634 of the church. The Constitution in Article 111 speaks of removal and relief. To relieve a bishop relates specifically to the ceasing of the conditions cited in Article 104. To remove is one thing; to relieve from duty is another.

1635 At the July 27 meeting of the Sabor, all the papers which I had taken back with me were considered. All
1636 of the complaints and charges with reference to Bishop Dionisije were read and circulated at that meeting. Contrary to Article 67 of the Penal Code none of the charges were served upon Bishop Dionisije prior to this July 27 meeting. Proceedings were initiated against him at the meeting of May 10, 1963. The Holy
1637 Synod did not make any finding of guilt or innocence with regard to Bishop Dionisije prior to July 27, 1963,

as this was done at the Holy Assembly meeting on March 5, 1964.

1642 The Penal Code of the Serbian Orthodox Church requires that the charges against an accused specify the time, place and manner of the offense in the Indictment. In the Indictment of Bishop Dionisije which
1644 is Exhibit 16, under the heading "moral picture" the first allegation does not set forth a time or place. It is not necessary. The Assembly had found that from the formal respects everything was in order,
1645 and that was the right of the Assembly. After July 5 it became secondary and that the indictment state the date, time, place and manner of the offense. In the
1646 4th paragraph of this group of allegations, the time and place are not indicated. Under Article 69 of the Penal Code, Paragraph 5, there is a provision which
1647 states "that the Indictment must contain an exact citation of the evidence." I do not know how many of
1652 the alleged accusers in the Indictment were dead at the time that the Indictment was drafted.

Article 69 of the Serbian Constitution provides that the Holy Assembly of Bishops handles appeals of the Holy Synod decisions and is the Court of second instance, or appeals in the case of a Bishop. The Holy Assembly can take it upon itself the privilege of adjudicating a case. Concerning the decision of March
1653 5, 1964, and Bishop Dionisije's right to appeal, every judgment of the Holy Assembly of Bishops, of every provincial Orthodox Church which is rendered by unanimous decision or with few dissents is final. I
1657 recall having said that there was a political agreement involving the Communist Party in Macedonia.

1677 (BISHOP VISARION KOSTICH continued—Volume 7)

When I met with Bishop Dionisije on July 5, 1963, at the Rustic Manor he was the Bishop of the Midwest American Diocese. He did not seek a transfer
1678 to the Midwest Diocese. When I met with Bishop
1679 Dionisije on July 5, 1963,I had never heard or known that a special session of the Holy Assembly of Bishops had been called for the expressed purpose of electing Firmilian to replace Bishop Dionisije.

1680 I met with Nicholas Stepanovich and Dr. Uros Seferovich and Stefan Marovich in the Sherman Hotel in Chicago on the evening of July 4, but I did not state that a special session of the Holy Assembly of Bishops had already been called for the purpose of electing Bishop Firmilian and Bishop Gregory as Bishops.

Redirect Examination.

Everything was confused there. Not a single Bishop can say that such an assembly will be called to elect such a person to Bishop. The summoning of an assembly, if it had reference to the Assembly of July 27, was called after its need appeared after Bishop Dionisije had taken a completely rejective stand as the Church had to take steps to protect its own interests.

1681 I did not know whether a tape recording was made
1682 of the July 4th meeting. Myself and Bishop Hrizostom spoke Serbian and the other conversed in English and then spoke to us in Serbian. I attended the meet-
1683 ing of the Holy Assembly of Bishops on May 10, 1963, and recalled what happened. With particular refer-
1684 ence to the action of the Holy Bishops' Assembly concerning the reorganization of the American Canadian

Diocese and the creation of the Middle Eastern-Canadian, Middle Western and Western Diocese, I am of the opinion that the action of the Holy Assembly of Bishops constituted an amendment of Article 15
1685 of the Constitution of the Serbian Orthodox Church. For a long time after the war the church began to spread and grow and decisions were rendered which themselves constituted amendments to the Constitution. But the formal printing was postponed so that when an accumulation of changes was obtained all those amendments were entered to provide a clean text. The Constitution was printed after these amendments were made in 1947. Even after that, other amendments were made to the Constitution, which up until the present day, have not yet been printed into the present Constitution.

1686 For example, in Article 14, in 1947, a new Diocese was founded called Budimlje-Polimlje. However, in 1946 upon the basis of Article 16 of the Constitution that Diocese was dissolved. But because of that the Assembly did not print the whole Constitution. As another example, in Article 15.4 the present Constitution shows the Diocese of Czechoslovakia Moravia. In 1948 the Holy Assembly released from itself this Diocese and allowed it to enter into the jurisdiction of the Russian Orthodox Church; however, it still appears in this edition of the Constitution.

1687 Under Article 15.6 it shows churches and parishes outside the boundaries of Yugoslavia in what was known as the missionary territory. The Holy Assembly found it necessary to establish in Western Europe a Diocese and take it away from the Patriarch and from his jurisdiction and establish a new Diocese called the Western European and Australian Dio-

cese with the See in London. At our most recent and regular Assembly of Bishops meeting the entire Article 15 was revised.

(Whereupon counsel read from testimony given by the witness at Page 1535 of the transcript.)

1692 I have not mentioned all of the amendments to the Constitution of the Serbian Orthodox Church. On
1693 the May 10 meeting in the afternoon, three Diocese in America were founded and that actually constitutes an amendment to the Constitution. We revised this article completely and instead of point one as it appears, which formerly was the Serbian Orthodox Church of the United States of America and Canada, we cite numbers 1, 2 and 3, the three new Dioceses.

(Argument of counsel.)

1694 On July 5, 1963, when we entered the Church, we
1696 found a Monk. The Church was not in disarray. We
1697 entered a building with a reception hall upstairs and as far as I can recall, there was nothing in disarray. The Bishop appeared at the top of the stairs dressed on his way out and we then followed him. It is uncustomary among Bishops to not be received in the home, but he took us somewhere else. I do not think that the name of the place was "Indian Club." I do
1698 not recall Bishop Dionisije saying why we could not meet with him in his residence. He had his hat on and was dressed to go.

1699 I do not know what the word "corporation" means. I am not acquainted with any of the statutes of Illinois or the regulations of the United States. The
1700 "Indian Club" or Rustic Manor, is a place with various spaces, tables and kinds of trees. There were partitions, benches and tables. We sat in a place which was partitioned completely isolated like in the

theater. We were in a booth as distinguished from
1701 a separate room. I have an opinion as to whether the
1702 indictment complied with the terms and provisions of the Penal Code.

(End of Visarion's testimony, Volume 7, Page 1703).

THE VERY REVEREND MILAN D. BRKICH testified as follows:

Direct Examination.

1703 My name is Milan Brkich and I reside in Chicago.
1704 I am a cleric of the Serbian Orthodox Church. I was born in Markovic, Serbia, Yugoslavia, on September 21, 1909. I was ordained on July 26, 1931, as a deacon
1705 at the Monastery of Rakovich near Belgrade. I was ordained as a priest on July 27, 1931 at the same Monastery. I attended the university and the Theo-
1706 logical School. I arrived in the United States on December 10, 1938, and was first assigned to the parish of Sarrel, Pennsylviania, and after a period of three months was called by Bishop Damaskin to work in the Diocesan Office. Bishop Damaskin was then the
1707 Bishop of the Serbian Eastern Orthodox Diocese for the United States and Canada. Presently, I am work-
1709 in the office of the Mid-West Diocese as Bishop Firmilian's secretary. I was administrative assistant to
1711 Bishop Dionisije for the Mid-West Region of the American and Canadian Diocese. There were other priests in these sections: in the Eastern Part the Very Reverend Dushan Kliment and for the Western Portion Father Vladimir Mivichin.

1714 I have attended all of the Sabors of the Serbian Church except the one held in 1963 which was not le-

gal in the eyes of the Church. My decision not to attend was by the direction of the administrator of the American-Canadian Diocese Archimandrite Firmilian Ocokoljich, as well as my own. I have not at-
1717 tended any Sabors called by Bishop Dionisije since 1963, nor have I been notified as to when those Sabors were to take place. I was sent on an assignment
1718 to Belgrade with two members of the Diocesan Council to see the Patriarch concerning the possibility of having two or three assistant Bishops assigned to our diocese. This matter was discussed in the diocesan council in December of 1961, and February and April of 1962. In the middle of May, I left for Yugoslavia, but the two members of the council did not accompany me. Shortly after my return from Yugo-
1720 slavia I was informed by Bishop Dionisije as to why the other members did not accompany me. The Bish-
1721 op, at his residence, told me that the other two members who were laymen could not go because he, as the Bishop, had been informed by the Patriarch that laymen cannot attend meetings of the Bishops' Synod in Belgrade, nor the Bishops' Council and, therefore, he did not think it would be useful for them to go if they could not explain their reason for coming there. The two individuals who were supposed to accompany
1723 me were Nick Stepanovich of East Chicago, Indiana, and Mr. Stephan Marovich of St. Louis, Missouri.

1724 The two men who served in the Western and the Eastern Regions of the former American and Canadian diocese now serve the newly appointed Bishops of the two new diocese in substantially the same ca-
1725 pacity. In February of 1962, a diocesan council meeting was held at which a discussion concerning the subject matter of the mission of the special delegation to Belgrade was had. Bishop Dionisije repeated once

again that he could not service the diocese in the way it should be because of the large territory which com-
1726 prised it. He stated that he needed assistant Bishops, at least two or three, and we should bring the matter before the Patriarch. Among other things, there was a motion that we should ask for Metropolitanate status for this diocese. Also, South Africa and South America were to be included in this diocese. I believe there was a resolution passed at that time, although I do not recall specifically the points it contained.

1728 Immediately prior to my departure I went to Bishop Dionisije's residence in Libertyville for any final instructions. The only other person present was Archimandrite Dimitrije Balach. I asked the Bishop
1729 who he might have in mind as possible candidates to be elevated to the rank of Bishop. He told me that first was Archimandrite Firmilian, second was Archimandrite Gregory and finally, the Very Reverend Steven Lastavica. I then departed and went to the Patriarchate in Belgrade. While I was there I had occasion to speak with Patriarch German and members of the Holy Assembly of Bishops. I reported to
1733 the Patriarch the three names that Bishop Dionisije had given me as his choice as for Bishops.

1735 Among the duties which I was to perform in Belgrade was to deliver a letter from Bishop Dionisije to the Patriarch. I delivered it upon my first meet-
1736 ing with Patriarch German and I never saw a copy of it.

1737 Bishop Dionisije requested my parish in Milwaukee excuse me as dean of the cathedral to allow me to go to Belgrade, and Plaintiff's Exhibit 83-A is a copy of that letter.

There was a definite understanding here in our diocese that the candidates for Bishops should be among the clergy of the United States and Canada. I related this feeling and opinion that was prevailing here to the Patriarch and some of the Bishops. They completely understood and felt it was natural that this part of the church should be governed by men who are acquainted with the life and conditions that exist in the diocese. During the period that I was in Belgrade, I submitted two reports in writing to Bishop Dionisije.

Plaintiff's Exhibit 84 is a pamphlet prepared by the Right Reverend Bishop Dionisije published by the Eastern Orthodox Diocese in the United States and Canada in Libertyville, in 1965 entitled "Patriarch German's Violations of the Holy Canons and Rules and Regulations of the Serbian Orthodox Church and Tito's Yugoslavia." A translation of my original report is contained in this document at pages 30, 31 and 32. About a month after I returned, I made an oral report to Bishop Dionisije to supplement my written report. The Diocesan Council was present at this time. I reported everything that transpired during the visit to Yugoslavia. I told them that the Patriarch felt as much as we did about our needs and that they were willing to meet our wishes as much as possible. I told him that there was good will on the part of the Patriarchate toward the needs of the people here. I reported further that the Patriarch and Bishops over there felt that since the title Metropolitan in the Serbian Church did not carry any more power but was merely an honor, in order to meet the desires of Bishop Dionisije, the Church in Belgrade would be forced to change the constitution to give the Metropolitan power over other Bishops. I told them further that they felt this was not a good time to touch the Constitution of the Serbian Orthodox Church for the reason that someone else might like to change the church constitution and that it was not in the interest of the church that they initiate any changes. I reported further that the Patriarch and Bishop Basil of Zhica had no objections to the names suggested by Bishop Dionisije as candidates to the new bishops from the states.

The commission headed by Metropolitan Damaskin came to the United States in 1962. They visited me in Milwaukee, but strictly as a social visit and not on their business. The diocesan board met on April 17, 1963, and at that meeting a resolution was adopted which everyone signed including Bishop Dionisije. Exhibit 85 is the English translation of the report of this meeting. I signed the Serbian Original of which Exhibit 85 is a translation in the presence of the members in the council present at that meeting. To the best of my knowledge, the document was then published in the benevolent Srbobran which is the official paper of the Serbian National Federation. I presided on the ninth of May, 1963, at a meeting of the clergy association held in Lorain, Ohio. There were at least two-thirds of the members present at that meeting. Bishop Dionisije attended for about half of the meeting.

A resolution was prepared during the course of the meeting while Bishop Dionisije was present. Plaintiff's Exhibit 85 is a copy of that resolution which was adopted and signed by all those who attended the meeting. Bishop Dionisije was the first signatory on this resolution. During the course of that meeting, the prior meeting of the Diocesan Executive Board, held April 17, 1963, was discussed.

Concerning the resolution which was drafted at that Executive Board meeting, Bishop Dionisije emphasized at that time that no one had the right to accuse him or judge him but his superiors who are the Patriarch of the Holy Synod of Bishops and the Holy Assembly. The Diocesan Plenum which is a body composed of the Executive Diocesan Board and the Church court held a meeting on June 6, 1963, which I attended in Libertyville. Bishop Dionisije also attended that meeting. The subject matter of the meeting was the personal difficulties of Bishop Dionisije as Bishop of the diocese. At this time we had notice of the actions of the Holy Assembly of Bishops that occurred on May 10, 1963. The meeting took place as to what should be done. At this point Archimandrite Firmilian entered the hall, approached the table, and was given a chance to speak. He had in his hands the decision made by the Holy Assembly of Bishops that he was appointed as the administrator of the American-Canadian diocese. He was ordered to take administrative duties from Bishop Dionisije at that time. He read the paper during the meeting and asked Bishop Dionisije to turn over the diocesan administration to him. Bishop Dionisije refused to do so on the ground that he was accepted by the people in the form of the diocesan church council and he could not turn over his duties as diocesan bishop until the church people's assembly was called into session and had a chance to make a decision. He stated that only when the assembly decided would he follow.

Archimandrite Firmilian pleaded with Bishop Dionisije to relinquish control of the diocese and, when he would not, Archimandrite Firmilian stated that

since the Bishop would not obey the highest church authority, he could no longer recognize him as his superior and his Bishop. At this point Archimandrite Firmilian departed along with several of the members and myself included. I stated during the debate that the church is hierarchical and he must be loyal to it. Bishop Dionisije responded that he did not want to leave his duties and that he was appealing to the people to make the decision. Promptly following the meeting, I received a communication from Bishop Dionisije.

Plaintiff's Exhibit 87-A is a one-page document containing the signature of Bishop Dionisije. I received this document personally on June 7, 1963, the day following the meeting. In this letter the Bishop dismissed me as Bishop's deputy for the Midwest states because I supposedly offered my resignation as a member of the diocesan council and the Church Ecclesiastical Court. In fact, I had not offered my resignation.

On Sunday, May 26, 1963, in a *Milwaukee Journal* a statement was made by a high church official and the patriarchate in Belgrade referring to the suspension of Bishop Dionisije and the decision of May 10th. I then went immediately to Libertyville to discuss this matter with Bishop Dionisije. I spoke with the Bishop in the presence of Father Radovanovich. I told the Bishop that he should get together with neighboring priests and officials of the diocese as soon as possible and discuss the matter thoroughly before taking any action on this subject. Bishop Dionisije agreed.

I proposed to the Bishop that the meeting be held the next night which was Monday, May 27th, and he agreed that we should have a meeting that night and

set the time at 7:30 P.M. The meeting was held the
1785 next night at the Bishop's residence in Libertyville. The meeting was attended by Bishop Dionisije, Nick Stepanovich, Dr. Seferovich, Father Milosevich, Father Velimer Kovacevich and myself. Plaintiff's Exhibit 74-A contains the signature of Bishop Dionisije on the third page.

1787 Copies of this communication were on the table in the room when the group entered to hold the meeting. A few days later I received a copy by mail from the monastery. The subject matter on this
1788 circular was discussed during the meeting I had with Bishop Dionisije on the Sunday afternoon before the meeting. Bishop Dionisije had said that he would
1789 not send any circulars to the clergy before the matter was thoroughly discussed. I asked the Bishop why he
1790 did not wait until we met and discussed this matter. He replied: "Did you come to cut my head?" To that Mr. Stepanovich replied, "We did not come to cut anybody's head, but we come as friends to find a solution to our problem."

1791 After a lengthy, heated discussion, Mr. Stepanovich directed a question to the Bishop saying, "Don't you think, your Grace, that this is a time that you resign as Bishop?" Bishop Dionisije replied that if we all thought that he should do it, he would do it, but he didn't know how he would live. We explained to
1792 him how his pension and the diocese would take care of him and provide him with living quarters and then he said, "Proto (that's what he called me), call Firmilian and tell him that I turn over that diocese to him."

1793 Mr. Stepanovich questioned the Bishop as to whether or not he would remain quiet with regard to the official ruling of the Holy Synod. Bishop

Dionisije replied that he would agree to remain silent and not say any more. On May 30, I came to the
1795 Monastery Church in Libertyville with the intention
1796 of serving. I saw Bishop Dionisije in the Church and he told me that the agreement made on Monday, May 27, was off. He said that he would not agree; that he was going to fight.

VERBATIM TESTIMONY

[1785] Q. And was a meeting held the evening of May 27, 1963?

A. It was.

Q. Where was it held?

A. It was held in the bishop's residence.

Q. In Libertyville?

A. In Libertyville.

Q. By "the bishop" you mean Bishop Dionisije?

A. Bishop Dionisije.

Q. Who attended that meeting?

A. This meeting was attended, besides Bishop Dionisije, by Mr. Nick Stepanovich, Doctor Seferovich, Father Milosevich, Father Velimir Kovacevich, myself—

Q. Tell us what occurred at that meeting, giving, to the best of your ability, the course of and nature of the conversation and who said what. And what action, if any, was taken at that meeting.

A. When we entered the building, we found on the large table in the dining room—

Q. Identify "we." Whom do you mean by "we"?

A. We arrived together, almost at the same time, following each other, almost at the same minute the
[1786] cars arrived and we went into the building, opened the door, entered the house and to our surprise we

found already on the table remaining pieces of circular sent by Dionisije which he promised not to do and—

Mr. Snyder: Just a minute, move the answer be stricken, what he promised he would not do and so on.

Mr. Jenner: He said the promise was made by Bishop Dionisije, your Honor.

The Court: Well, frankly, I did not understand what he saw or found on the table.

(The answer was read by the reporter.)

The Court: I will strike the reference to the circular which he promised he would not do.

Mr. Jenner: Plaintiff's Exhibit 74 and 74A.

By Mr. Jenner:

Q. Are you familiar with Plaintiff's Exhibit 74A, Father?

A. Yes, I am.

Q. Directing your attention to the third page, do you recognize the signature there?

A. Yes, I do.

Q. Whose is it?

[1787] Signature of Bishop Dionisije.

Q. Is this the communication to which you have just had reference?

A. Yes, this is the one.

Q. Is this the communication copies of which were on a table in the room when you and Mr. Stepanovich and the others entered?

A. Yes, it is.

Q. When did you first see that document?

A. I saw the table in the dining room of the diocesan residence.

Q. Did you receive a copy of that document in due course?

A. Later, few days later I received copy.

Q. Did it come by mail or was it delivered?

A. It was by mail.

Q. Who mailed it to you, if you know?

A. It was mailed from the Monastery.

Q. Mailed from the Monastery?

A. Right.

Q. Had you prior to seeing copies of this document on the table in the Monastery on the evening to which you refer, discussed with Bishop Dionisije the subject matter of his communicating with the Clergy [1788] and with the faithful of the diocese?

A. I didn't understand the question, sir.

Q. Directing your attention to the Sunday afternoon conference you had with Bishop Dionisije, during the course of that conference, was the subject matter of the transmission of a communication to the Clergy of the diocese discussed?

A. It was discussed.

Q. With Bishop Dionisije?

A. With Bishop Dionisije.

Q. And did he say anything at that time as to whether he would or would not send a communication to the Clergy and the faithful of the diocese? Yes or no.

Mr. Snyder: Objected to.

The Witness: Yes.

Mr. Snyder: Objected to, leading and suggestive.

Mr. Jenner: If your Honor pleases, the witness said he's exhausted his recollection and I am now asking him a question which I respectfully submit is proper.

The Court: Well, I'm not certain you asked whether he exhausted his recollection. Had you done so?

[1789] By Mr. Jenner:

Q. Up until the moment I asked you this last question, had you exhausted your recollection as to what took place and what was said in the Sunday afternoon conference with Bishop Dionisije at the camp grounds at the Monastery?

A. Yes.

The Court: Now he may answer.

Mr. Jenner: Would you put the question, please.

(The question was read by the reporter.)

The Witness: "I will not send anything before we meet and discuss the matter."

By Mr. Jenner:

Q. Now, you were telling us of what occurred and what took place when you and Mr. Stepanovich and the others all simultaneously entered—was it Bishop Dionisije's residence?

A. It was his residence.

Q. And you had reached the point where you said you found or saw copies of Plaintiff's Exhibit 74A on a table in those quarters.

A. Yes.

Q. That's the point you had reached. Would you proceed from there.

[1790] A. We were disturbed—

Q. Father, you can't say you were disturbed. You may say what you said and what the others said.

A. I said to him, "Why didn't you wait?"

Q. To him, is that Bishop Dionisije?

A. Bishop Dionisije.

Q. Was he present in the open room where these papers were on the table?

A. Yes.

Q. And were the others you mentioned?

A. All of them standing around, all around, and I said, "Why didn't you wait until we met and discuss this matter as you have promised?" He then looked at us and said, "Did you come to cut my head?" To that Mr. Stepanovich said, "We did not come to cut anybody's head, but we come as friends to find a solution to our problems."

Then we went upstairs in a room which was used as a library, sat down, and at that time Bishop Dionisije handed over to, I believe, Doctor Seferovich, first a statement made to the American press as his reply to the announcement published the day before.

After reading, Doctor Seferovich carried over that [1791] paper to Mr. Stepanovich; Mr. Stepanovich read the paper and stated:

"If this kind of a statement was done by you," meaning Doctor Seferovich, who was at that time president of the Serbian Defense Council of America, "I would understand it. But not him as a bishop, making a pure political statement."

Discussion developed to the point where we all spoke in rather high-pitched tones which lasted for a long time, maybe an hour, or hour and a half at the least, and finally we calmed down and at that time, Mr. Stepanovich directed the question to Bishop Dionisije, "Don't you think, your Grace, that this is the time that you resign as a bishop?"

Bishop Dionisije said, "If you all think that I should do it, I'll do it." But then he said, "How

should I leave if I should leave?" Then I personally said to him, "Your Grace, the Serbian people will take care of you. This year you will be 65 years, you will have $120 for Social Security, $50 from our President's Pension Fund, and everything that is less than your present salary should be added by the Diocese as a pension and then you may have living
[1792] quarters, whether you like to live in Libertyville, Shade Land, or Jackson, plus when the Investigating Committee should come, we, all of us, will stand before the Investigation Committee and tell them acting as a nation, we considered the things over and there shouldn't be any investigation."

That is the conversation that I responded at that time, and then Bishop Dionisije said to me—

Q. In the presence of the others?

A. In the presence of the others, "Proto," that's what he called me, "call Firmilian and tell him that I turn over that diocese to him."

I asked him where now Archimandrite Firmilian was. I knew that he moved from New York to Pittsburgh, but whether he still is in New York at that moment or in Pittsburgh I did not know. It looked like the Bishop was not himself, either, and it remained open.

And then again Mr. Stepanovich said, "But now, Bishop, how can we trust you? You trampled down all the decisions that were made by so many bodies and your own promises. How can we trust you even
[1793] now that you are going to follow what you just said here? You cannot keep quiet. You always say some things all the time. You can't keep silent."

To this Bishop Dionisije said, "All right, I'll keep quiet as a fish, I won't say anything, I'll keep quiet as a fish, I'll never say anymore." And we accepted this as his—

Mr. Snyder: Move that be stricken. "We accepted this—"

The Court: That part is stricken.

By Mr. Jenner:

Q. What was said by anybody following this statement by Bishop Dionisije?

A. We agreed—

Q. What did you say?

A. I say, "It's fine, we will do it that way."

Q. Did Mr. Stepanovich say anything at that time? What did he say?

A. It was in a way a silent agreement.

Q. Were you the only one that spoke those words?

A. It's hard to recollect all those smaller details after so many years, but this was the general feel-
[1794] ing and agreement.

Mr. Snyder: Objected to and move it be stricken.

Mr. Jenner: If your Honor pleases, the problem of the state of mind of course is not hearsay on the part of Father Brkich and others attending this meeting to the extent of talking. This is not hearsay and that is what he is testifying to.

The Court: I will strike it nonetheless as to it being an agreement.

By Mr. Jenner:

Q. Did Bishop Dionisije keep his word as you have related in his words that night?

Mr. Snyder: Objected to.

Mr. Jenner: May I have the ground of that objection, if your Honor pleases.

The Court: Yes.

Mr. Snyder: Calling for a conclusion.

The Court: Objection sustained.

Mr. Jenner: I beg your pardon?

The Court: I say, the objection is sustained.

I realize it might shorten it up, but there's an objection so the objection is sustained.

Mr. Jenner: All right. Yes.

By Mr. Jenner:

[1795] Q. Have you now exhausted your recollection of the meeting on Monday night?

A. I will say so.

Q. Everybody then left?

A. Yes, we left there about 12:30, after midnight.

Q. What was the next event that occurred?

A. The next event was on May 30, which was Decoration Day.

Q. What happened on that day?

A. On that day I came from Milwaukee with the intention to serve in the church—

Q. What church?

A. Monastery Church in Libertyville. I parked my car to get out with Father Mijatovich and we went into the church building and we saw on our right-hand side Bishop Dionisije sitting in the part of the bench. When I approached that point, he gave a sign to come to him and we were going to him and Father Mijatovich from a certain distance said, "Bishop, bless us." Dionisije answered, "Do you think that I can bless anyone now?" Father Mijatovich said, "If you cannot bless us as a Diocesan Bishop, you can as an older man."

[1796] To this Bishop Dionisije said, "Oh, you consider me now only as an older man." And then looked to me in the face and said, "Proto, there is nothing doing as far as our agreement from Monday, May 27, is concerned."

I said, "What do you mean?"

He says, "No, I will not do that. I will fight." And I asked when—I asked him "When is your Bishop's word ever going to be kept?" And he said, "What are you saying?" And I answered this: "What are you doing?"

And that was the last conversation that I had with him.

Q. That's the last you had with him on that day?

A. I didn't have any conversation with him anymore.

ABSTRACTED TESTIMONY RESUMED

1797 Following the Plenum meeting of June 6, 1963, a commission came to America composed of Bishops Hrizostom and Visarion and Father Mladen Mladenovich. They visited me in Milwaukee and informed me of what they were doing. While at my parish
1798 house they wrote down their findings and decision, but I did not take part in the preparation of that document. Plaintiff's Exhibit 17-A is the document
1799 that was prepared in my parish house and in my presence. It was also executed in my presence by the Bishops who took part in the investigation.

1800 Using my office facilities the document was duplicated and copies were mailed to all congregations and priests. I attended the meeting on July 4, 1963, at the Sherman house where Bishops Hrizostom and Visa-

rion along with others were present. The purpose of this meeting was to try to find a peaceful solution for our church problem. I was present throughout the meeting and no reference to the presence of a tape recorder was made. I did not see a tape recorder at any time.

FATHER MILAN BRKICH, testified as follows:

Direct Examination Continued.

I recall testifying that I attended a council meeting in 1963. It occurred on June 6.

On December 5, 1963, I had the occasion to seek permission to perform an interment ceremony at the Monastery Cemetery. This was with respect to a former parishioner who had died. His name was Milof Jevremovic who died in the beginning of December, 1963. Burial was scheduled for December 5, at the Monastery in Libertyville. When the procession arrived at the Monastery Cemetery, the gate was locked with chains. Family and friends usually make arrangements at the Cemetery. When we arrived at the Cemetery and found the gates locked, I sent a man into the Monastery residence to ask then to unlock the doors so that we could proceed. The messenger I sent returned to the gates. At that time Bishop Dionisije was in the residence at the Monastery; however, no one appeared at the Cemetery gates to open them. I then sent a man into Libertyville to bring a policeman who later arrived. Serving in my capacity as a clergyman, I am well acquainted with the procedure used at the Cemetery at Libertyville. A priest from Chicago, South Chicago, Gary and others had used the Cemetery prior to 1963.

After the Council meeting of June 6, 1963, a change in these long standing procedures occurred. I became acquainted with the changes through a circular which was sent from the Monastery by Archimandrite Dimitrije Balach. At no time prior to June 6, 1963, did I ever find the cemetery gates locked or chained. To my knowledge no other priest of the Canadian-American Diocese had ever arrived at the gates prior to 1963 and found them locked or chained.

We then returned back to Milwaukee with the body and the man was buried on the following Monday in a Milwaukee cemetery called "Good Hope Cemetery." After December 5, I never again attempted to bury anyone in the Libertyville Cemetery. On one occasion between June 6, 1963, and December 5, 1963, I officiated at a burial at the Monastery Cemetery over a man who is a member of the Chetnik organization and there were many people present. The gates were not closed this time.

In addition to the circular, I received knowledge concerning the change in policy at the cemetery from priests in the surrounding area with whom I talked from time to time. Upon receiving the circular I reported this information to my church board. My discussion with other priests concerning the subject matter of the circular occurred on Labor Day in South Chicago when we got together and discussed the matter among ourselves. To the best of my recollection, I received this circular sometime in the end of August in 1963. Of my own knowledge, I know this circular was distributed to other priests in the area.

The new policy as stated by the circular was that priests who no longer held allegiance to Bishop Dionisije would not be allowed to enter the Monastery grounds and specifically the cemetery.

I have examined Plaintiff's Exhibit 88 and 88-A and can state that I received both of them by mail. As this document is dated July 15, 1963, it is my belief that I received it a day or two later. I find this translation from Serbian to English is an accurate one based on my examination. I received the Serbian copy in the mail.

In my official capacity as the dean of the Cathedral of Milwaukee I had occasion to receive the communication dated August 1963, identified as Plaintiff's Exhibit 89 entitled "GERMANOS BY THE GRACE OF GOD, ORTHODOX ARCHBISHOP OF PEC, METROPOLITAN OF BELGRADE-KARLOVICI AND THE SERBIAN PATRIARCH." This communication was from the Patriarchate. In examining Exhibit 89, I compared it with my mental recollection of the original which was in Serbian and which I remember very well. I did not prepare Exhibit 89 and I have no knowledge as to who did prepare it.

I have examined Plaintiff's Exhibit 90-A and can state that I received this during the month of September of 1963. The document was sent to me by mail from Libertyville, Illinois.

Cross Examination.

The Chetnik organization was formed in the United States from participating members who fought communism during the war in Yugoslavia. There were several factions and the one I am referring to belongs to the leader called Monsilo Djujich.

On the October 5 occasion of the burial which was permitted at the Monastery cemetery there were about 40 to 50 Chetniks participating in the funeral procession. I did not see Bishop Dionisije at that time, nor did I see any authority of the diocese there.

When we arrived at the gates they were open and several people at the grave site told me, "We came in advance here to see whether or not anybody dares to close the gates." The man we buried on December 5 had no relatives.

I am usually informed by the funeral director who tells me the day he receives the body that one of my parishioners has died. In this case, I talked to the funeral director but to nobody else concerning this dead man. I have no letters of any kind or any written instructions concerning the burial of this man. The funeral director's name is John Schaff and he is not a member of my church, but is a Roman Catholic. I received all the information from John Schaff concerning the burial of this man on December 5, 1963.

I was 29 years of age when I arrived in this country and Bishop Damaskin had already come to the United States prior to my arrival. When I first arrived I came to Ferrall, Pennsylvania. At that time Bishop Damaskin was Bishop of the Serbian Eastern Orthodox Diocese for the United States and Canada. I believe that he arrived in September of 1938 and left sometime in November of 1939. I worked as a secretary for him for a time. I performed clerical work drafting documents, answering letters, writing instructions to parties. I have examined Plaintiff's Exhibit 30 which is the English translation of the constitution of the diocese for which I was then working. I did not do anything of the constitution. This is a translation done by Father Metrovich and as I arrived after the Sabor of 1938 everything was already done. Exhibit 30 is an English translation of the constitution with which I am familiar.

I believe that I was elected to the Diocesan Council in 1960. If I was elected, it was by the Sabor which

is a church people's assembly of the whole diocese called every four years and which meets in Libertyville. At that time Bishop Dionisije was the diocesan Bishop. I attended the Diocesan Council meetings at Libertyville Monastery of St. Sava. The see of
1869 the diocese is a geographical location where the seat of the diocese is and in this case Libertyville, is that seat.

1873 I was elected to my position on the diocesan counsel by the Sabor in the year 1960 which was the 9th church people's assembly held in Libertyville, Illinois, on September 13, 14 and 15, of 1960. I believe that Sbetozar Marvich was a member of the
1874 council at that time, as was Dr. Urox Seferovich and Nikola Cavanja, among others. Nikolai Stefenovich was also a member at that time as legal advisor.

1875 I took it as fact that I was a member of the church ecclesiastical court which is provided for in Article 42 of the diocesan constitution. I attended all of the
1876 diocesan Sabors after my arrival here from Yugoslavia. I attended the Sabor of 1944 at Libertyville as described in the English translation in Exhibit 30. The Church Ecclesiastical Court met at the diocesan see at St. Sava Monastery. The church national assembly, sometimes described as the Sabor, meets also in Libertyville.

1877 I attended a Sabor every four years between 1944 and 1960. Each of these was held in Libertyville. In the diocesan council discussion of the inquiry of 1962 concerning the need for two or three assistant Bish-
1878 ops, it was intended that they were to assist Bishop Dionisije. To my knowledge there was never, prior to May 1963, any request for the Serbian Orthodox Diocese for the United States and Canada to divide

the diocese. To my knowledge Bishop Dionisije never made any such request. I did not inform the Patriarch that any such request had ever been made.

1879 The meeting which took place at the Sherman Hotel on July 4, 1963, began sometime in the afternoon. The meeting lasted an hour to an hour and a half and
1880 2 hours at the most. In attendance was Nicholas Stepanovich, Uros Seferovich, Archimandrite Firmilian, Bishop Hrizostom and perhaps Father Popovich, but I am not sure and I believe, Mr. Maravich. I recall that at 6:30 in the evening of July 4, 1963, Mr. Stepanovich invited Bishop Vasarion, Bishop Chrisostom, Father Lastavica, Father Firmilian, Father Birchich, myself and Dubak, Maravich and Dr. Seferovich to a gathering at the Sherman
1882 Hotel.

1883 It is not true that this meeting was held over a five hour period which included dinner. There were no chairs in the room and we all continued to stand throughout the meeting. Bishop Chrisostom sto[illegible]
1885 during the entire time he was in the room and could not have been over sixty at that time. I heard some-
1886 where that Nicholas Stepanovich had a tape recorder hidden somewhere in the room and I was not aware that it was there. I do not recall Mr. Stepanovich stating that at the 1960 Sabor the right to call the next Sabor was delegated to the Bishop and the Plenum. I recall him saying that the Sabor was originally called for October 19, but because of the tur-
1887 moil the Plenum unanimously voted to advance the Sabor to August. The purpose of this Sabor was for the Council to ask the Holy Synod to send a commission to investigate the complaints against Bishop
1888 Dionisije and everyone expected that the commission

would come to the Sabor in an attempt to solve the problem. I made the motion to advance the Sabor
1889 orginally set for October of 1963, to July. The final action taken by the Council was to advance it to August. I recognize the Plenum exists in this diocese as a combination of different committees and which functions in practice, but is not sanctioned by the constitution.

1892 On June 6, 1963, I recall making a request that the diocesan Sabor be advanced in order to consider the May 10th, 1963, decision of the Holy Synod. I do not recall Mr. Stepanovich asking Bishop Chrisostom at the Sherman Hotel on July 4, 1963, whether the calling of the 1963 Sabor was legal and the reply that it was. I do not recall any questions directed to Father Firmilian concerning the legality of the Sabor. Dr. Seferovich replying to Bishop Chrisos-
1893 tom stated, "We want to rule the church and we are going to eliminate all those who are undesirable to us. One priest in Cincinnati, Ohio, is already out, a second one in St. Louis is out, next is Dusan Popovich in Chicago and next is you" and he pointed directly at me.

1894 I do not recall Bishop Chrisostom stating that neither the Sabor of the United States, the Plenum in the United States, nor Bishop Dionisije had asked that the diocese be divided in three parts in response to the question from Mr. Stepanovich. I recall Bishop Chrisostom agreeing that neither Bishop Dionisije, the Plenum or the Sabor had nominated or requested Father Lastavica be ordained as a Bishop. I do not
1895 recall whether or not there was a tape recorder on the table at the June 6, 1963, Plenum meeting. I was

not aware that all of the Plenum meetings and diocesan council meetings are taped. I was aware that some of the Sabors had tape recordings made. I did
1897 not see the tape recorder at the 1960 Sabor. On June 6, 1963, the Plenum meeting was held in the Monastery at St. Sava and there were 25 to 30 people in attendance, or perhaps more including the guests. At that meeting, I made a motion that the Sabor should be accelerated for the purpose of settling a problem of Bishop Dionisije and to the best of my knowledge I recall nothing else in my motion considering the division of the diocese.

1902 I do not remember saying at the Plenum on June 6, 1963, in words or substance, in the Serbian language that "I second the motion that our Sabor consider our constitution." I likewise do not remember saying
1903 "that this question be treated at our church national assembly again because a complete investigation should be made and now as far as that question is concerned our Sabor is a live body and should make the decision on that subject." I do not remember that
1905 the May 10, 1963, decision of the Holy Synod of Bishops was discussed at the June 6, 1963, Plenum meeting. I do not recall whether anything other than
1906 the question of the division of the diocese and the matters relating to Bishop Dionisije was discussed at the 1963 meeting on June 6. I recall that June 6,
1909, 1963, Plenum meeting. The meeting was called to consider the matters on the agenda but I do not recall what the agenda was. I do not recall whether or not I was a member of the Executive Board who set up that special meeting. Special meetings were usually
1910 set up by the Executive Board of the diocesan Council. I was a member of the Executive Board but I do not recall attending that meeting.

To the best of my recollection, when I arrived at the meeting the participants were discussing the matter of the May 10, 1963, Synod decision. To the best of my recollection, Father Firmilian was not present at the beginning of the meeting but came in later and read his statement which he received from the Holy Synod asking him to take over the diocese. I do not recall that there was anything else discussed at this meeting besides complaints against Bishop Dionisije. I recall that the discussion included the fact that the decision made in Belgrade required this Sabor date being advanced, and in connection with this, the decision was made that a commission should investigate the complaints against Bishop Dionisije.

I received the ruling of the Holy Synod of Bishops of May 10, 1963, by mail shortly after that date, but I do not know how many days. I was concerned about the conditions which provoked the decision. The division of the diocese into three parts was immaterial to me. It was the decision of the high authority of the church. I did not feel that it would be a transgression against our constitution. I was only concerned with what was going to happen with the church in the United States. I did not call this Plenum to consider the decision of May 10; I was not instrumental in deciding anything as I am just one member. At the Plenum meeting of June 6, 1963, the May 10, 1963, decision was discussed at length. Mr. Stepanovich may have stated that this was against the constitution of the American-Canadian Diocese. The discussion included whether or not the diocese could be divided into three parts by the Holy Synod. I did not say, nor do I recall anyone saying, "that our Sabor in its full jurisdiction considers the division of the

diocese." I do not recall seconding any motion concerning the Sabor considering the division of the diocese and requesting a study be made.

I attended the Plenum meeting in Chicago in February of 1962. I do not recall the subjects of discussion. I do not recall Mr. Stepanovich stating that, rather than have the Mother Church send a Bishop not of our choosing, it would be well to discuss with the Hierarchy our present position and what would happen in the eventuality of the death of Bishop Dionisije. The discussion at this meeting contained the proposal that a delegation from our diocese be sent to the next Sabor in Belgrade which was to occur on the second week of May to discuss the possibility of assistant Bishops for Bishop Dionisije. The Plenum unanimously adopted this suggetion and left it for the Bishop to appoint the members of the delegation. The Plenum might have expressed who they would have Bishop Dionisije send to Belgrade. The Bishop appointed myself, Nicholas Stepanovich and Stefan Marvich as members of the delegation to Belgrade. I learned later about a cable from the Patriarch to Bishop Dionisije stating that a delegation would not be welcome without Bishop Dionisije as its head. The delegation did not go.

At the Plenum meeting of June 6, 1943, Father Firmilian asked Bishop Dionisije to turn over the old Diocese, the diocese which was in his possession at the moment. I do not recall that Bishop Dionisije told him, "I am not the Bishop of the Midwest Diocese." To the best of my knowledge, Bishop Firmilian said, "I am ordered by the highest church authority to take over the diocese from you and I am asking you to turn it over to me." In substance that is what he said.

Firmilian had a paper in his hand and he read it to Bishop Dionisije. I believe that it was the decision of May 10, 1963. On October 1, 1966, I began being Secretary to the Midwest Diocese. At that time, I was
1951 the Secretary of the whole church, all three dioceses under the church council. I also worked for Firmilian for the Midwest Diocese. The council to which I refer is the council of all three dioceses, composed of representatives of all three dioceses.

1952 The church council was created by the Church Assembly in 1964 in Detroit, Michigan, but I am not aware if there is a constitutional provision for this council. The Midwest Diocese, of which I am the Secretary of the Bishop, is not a separate, independent diocese from the other two dioceses created on May 10, 1963. The three dioceses are three component parts of the Serbian Orthodox Church of America and Canada. This is based upon the Constitutional statements saying that the Serbian Orthodox Church in the United States is a component part of the Serbian Orthodox Church in Yugoslavia, which appears in the Constitution of the Serbian Orthodox Church in Yugoslavia. That Constitution does not mention a diocese in the United States. It existed prior to May 10, 1963.

1954 I act as Secretary to the Bishop of the Midwest Diocese and handle all matters assigned to me. I have the diocesan council and have handled all matters for the Council since 1966. That council has had regular meetings since 1966. Referring to Plaintiff's
1955 Exhibit 8r, I have examined Pages 30, 31 and 32. I
1956 believe I was in Belgrade at the time I made this report and mailed it to Bishop Dionisije.

1957 I made two written reports which are Plaintiff's Exhibit 87 and an oral report in July of 1962. I also wrote some articles in papers and newspapers. I be-
1958 lieve I wrote a report for a newspaper called *Srbobran,* published in Pittsburgh, Pennsylvania.

1959 The reports stated, "I have spent several weeks in this ill-fated country, carefully studying the life of my people under communism. I talked as little as I could and tried to observe and listen to what is going on. 'Freedom of religion is guaranteed,' and is written in the Constitution of Communist Yugoslavia. I remember that the same phrases written in the Soviet Constitution in many places, but that did not stop them from closing recently several theological colleges and putting several Russian Orthodox Priests in prison. In Yugoslavia the situation is the same as in the Soviet Union or China. 'The religion is an opium for the people'; therefore it must be destroyed by all
1960 possible means, they say. Tito has well succeeded in cheating the West with his propaganda in this respect. In Belgrade the churches are opened and lately services are conducted without interference. Belgrade is a big city. There are foreign embassies and many tourists from the west. But if we look a little deeper into the religious life of the people in Belgrade, or more so into the interior, we will see diabolical plans and actions against the church and religion in general. For instance, a number of churches in Belgrade were damaged during the war and repairs are necessary. These churches have no income of any kind since the collection of money for this purpose is prohibited. The only collection which the communists allow is the plate-collection in the church. This income is so small that it is not sufficient to cover the

most trivial necessities. The people who go to church are very poor and one cannot expect larger donations from these people. The people with good income are communists who don't go to church. How then could a particular church be repaired. If the priests are caught collecting donations outside the church, they are severely punished. The young people and chil-
1961 dren cannot attend the church on holidays, not because they are non-believers, but because they are afraid. The youth who is employed is afraid to lose his job. This has often happened. The school children are systematically taught against church ways. In the classes children are taught to make fun of everything connected with religion, national, traditional, etc. This is also true among children in the kindergartens who are from four to six years old. I was a guest in a family where they told me that their five-year-old boy came home from school on Patron-Saint Day and refused to say 'zito'. (This is a religious custom whereby one takes a spoonful of cooked wheat in remembrance of the Patron-Saint, protector of the family) because his teachers told him not to. In another school, they told me two girls were thrown out of school because they had small, golden crosses around
1962 their necks. The teachers approached them, angrily tore the crosses from the chains, dropped them on the floor, and threw the girls out of school. In the smaller towns in the interior, the terror against the priests while they are performing their church ceremonies, has never entirely ceased. In these places, in order to show their loyalty to the Party, the local authorities consider it their duty to hamper the churches and their priests. Very seldom would the higher authorities intervene in favor of the church."

1967 The entire report was published in Pittsburgh and everything contained was true. To the best of my recollection it was published in *Srbobran*. I am ac-
1968 quainted with Father Dusan Vavich. I filed a complaint to the Patriarch on August 2, 1963, which became item 17 of the Indictment in this case. My signature appears on the Serbian document marked as Defendant's Exhibit 5-A. Between 1938, the date of my arrival in the United States and May 10, 1963, the diocese in which I served as a member of the diocesan council and as a member of the church eccesiastical court was the only religious body of the Serbian Orthodox Church in the United States and Canada. I left the Serbian Cathedral in Milwaukee, Wisconsin, on December 1, 1964.

1972 My assistant at that church was Sava Vojkove. He later was placed in charge of the Cathedral and I have heard since that he was removed as dean of the Cathedral. Applications were requested for persons
1973 wishing to fill the position vacated in Milwaukee and I made such an application. I was the only applicant
1974 for the job and I was rejected. I did not finish my
1976 studies at the Theological School and required one more semester. On March 15, 1939, when I was 29 years of age, I was secretary to Bishop Damaskin; now, thirty years later I am secretary to Bishop Firmilian doing approximately the same work I was doing 30 years ago.

Redirect Examination.

I resigned my position in the Cathedral in Milwaukee for health reasons. When I reapplied for the
1977 Milwaukee parish my health had completely recovered.

The Chetniks who were present at the cemetery were members of the Milwaukee congregation. Most of them accompanied the funeral cortege from Milwaukee to the cemetery. Mr. John Schaff was the funeral director in charge of that particular funeral and had been in charge of other burials in the cemetery at St. Sava on prior occasions. It was usual that the family, or the friends in the absence of family, make the arrangements with the funeral director, and the funeral director make arrangements with the cemetery for preparations prior to the time of burial. Regarding the meeting of the council and the church court group on June 5 and 6, 1963, at no time did I consent that that proceeding be recorded on tape. No mention was ever made to me of the tape recorder. Regarding the meeting at the Sherman House I was similarly unaware during that time that a tape recorder was present. No mention was ever made of it.

There is no funeral director of the Serbian Orthodox Faith in Milwaukee or in the Chicago area to the best of my knowledge. Expenses for my trip to Yugoslavia were paid for by Bishop Dionisije. I visited Bishop Dionisije on the eve of my departure to Yugoslavia. In my discussion with the Bishop prior to my departure I told him I wanted to be sure about the job I had to do in Yugoslavia and asked him specifically who his candidates for Assistant Bishop were. He replied that he wanted first, Archimandrite Firmilian, and then Archimandrite Gregory, and finally the Reverend Steven Lastavica. At no time while I was in Yugoslavia did I have any communication with Bishop Dionisije.

Recross Examination.

I wrote the articles about my observations in Yugoslavia, some of which related to the church and some to other associations. I believe that I wrote four or five in a continuing series.

DOUSHAN SHOUKLETOVICH testified as follows:

Direct Examination.

My name is Doushan J. Shoukletovich and I reside in San Diego, California. I am affiliated with the Serbian Orthodox Church and am a retired priest. I was born on June 28, 1896. I received my primary and secondary education in Yugoslavia and studied Theology in France and England. I was sent to this country in 1920 by the Serbian Orthodox Church, at the invitation of three Episcopal Bishops, to continue my studies in the general theological seminary in New York and at New York University. After I finished my studies abroad, I was called back to Yugoslavia by the Serbian Orthodox Church officials.

During the period when I was in the United States, the Serbian Orthodox Church to be legitimately recognized had to be under the offices of a Bishop, and since there were no Serbian Orthodox Bishops in the United States, most of our churches were under the jurisdiction of the Russian Orthodox Church.

VERBATIM TESTIMONY

[1996] Q. And in what work was Bishop Nicholai engaged at that time [Autumn, 1921]?

A. As I said, he had lectured at those institutions, but also he was at that time getting in contact with the Russian Orthodox Church.

Q. What was the relationship between the Russian Orthodox Church, the Serbian Orthodox Church
[1997] and any congregations of the Serbian Orthodox Church here in America at that time?

A. Our Serbian Orthodox churches—

Q. You may sit back and relax.

A. I am quite all right, thank you.

Our Serbian Orthodox Church, as all other orthodox churches, in order to be legitimately recognized, it must be under a jurisdiction of one of the canonical bishops, and since we did not have a bishop at that time—

Q. You did not have a Serbian Orthodox Bishop?

A. Serbian Orthodox Bishop. Our churches, most of them, went under the jurisdiction of the Russian Orthodox Church in this country, and the relationship was friendly.

Q. And what was Bishop Nicholai's mission in that respect?

A. Bishop Nicholai's intention and mission was actually to ask the releasing of the jurisdictional power over the Serbian churches by the Orthodox hierarchy so that he could have them organized into their own Serbian Orthodox dioceses.

ABSTRACTED TESTIMONY RESUMED

1998 I was eventually ordained after completing my studies in November of 1926. Both as a deacon and
1999 as a priest, I was ordained by the first Serbian Orthodox Bishop for the United States of America and Canada, Bishop Mardary. After my ordination I
2000 was assigned to a parish in Lorain, Ohio. Bishop
2003 Mardary went to Yugoslavia in 1926 to be consecrated as Bishop, and prior to that time there was no diocese of the United States and Canada in ex-

2008 istence. I received a number of honors during the years that I served the church. When I was first ap-
2010 pointed as pastor in Lorain, Ohio, no congregation existed. I organized the parish according to the ordinary customs of our church at that time.

2013 I have read PX 24-28.

2019 The time came in our diocese when there was appointed by the Holy Assembly of Bishops a regularly designated diocesan Bishop. I met the Bishop on his
2020 arrival here in 1926 and he was Bishop Mardary Uskokovich. At the interim period between the de-
2021 parture of Bishop Nikclai to Yugoslavia and the appointment of Father Mardary as Bishop, Mardary was designated as administrator of the diocese.

VERBATIM TESTIMONY

[2019] By Mr. Jenner:

Q. Did there come a time, Father Shoukletovich, when there was appointed by the Holy Assembly of Bishops, a regularly designated diocesan bishop?

A. Yes.

Q. And do you have personal knowledge of that?

A. I do have that directly from the bishop him-
[2020] self whom I met in New York upon his arrival from Belgrade.

Q. And when was that, sir?

A. That was in 1926, in the spring.

Q. Who was that?

A. Bishop Mardary Uskokovich, but we don't use that last name, that's the last name, and we use Bishop and then only the first name given to him. We eliminate completely the last name.

Q. But for purposes of the record, would you please spell the last name of Bishop Mardary even though you are not going to use it from here on.

A. U-s-k-o-k-o-v-i-c-h.

Q. Now, had Bishop Mardary, prior to becoming consecrated a bishop for the church in America, diocese, been a parish priest in America?

A. He has.

Q. And was he a parish priest at the time Bishop Nikolai came to America?

A. He was.

Q. Do you know of your own knowledge whether the then Father Mardary assisted Bishop Nikolai in his mission to organize the church in America and to form a diocese?

[2021] A. At the time when Bishop Nikolai came in, Bishop Mardary had gone to Yugoslavia so they were not meeting at that time here, but they met in Belgrade before Nikolai came here.

Q. Now, in the interim period between the time of the return of Bishop Nikolai to Yugoslavia—when was that date again?

A. Latter part of 1921.

Q. And the consecration of Father Mardary as a bishop and his assignment as bishop of the Canadian-American Diocese, who carried on the work of assembling the congregations and eventually bringing about the organization of the diocese?

Mr. Snyder: Objected to, no showing of any personal knowledge of this.

By Mr. Jenner:

Q. Do you have personal knowledge of who did or didn't?

A. I do. I have.

Q. Tell us, please.

A. In 1923, Archimandrite Mardary came here as a designated administrator of the diocese under the jurisdiction of Bishop Nikolai because Nikolai was still at that time to be accounted to by Archi-

[2022] mandrite Mardary, and that was in 1923.

ABSTRACTED TESTIMONY RESUMED

2026 Father Mardary left this country in 1921 for Yugo-
2027 slavia and returned to the United States in 1923. During the period in which Father Mardary was absent from this country two Protos represented the Serbian Church. I had occasion to visit both of these
2029 gentlemen during that period and we had occasion to
2030 discuss, superficially, whether we would have much of an organized life in our church. They were both very hopeful about it. After Bishop Mardary's re-
2034 turn from Yugoslavia in 1923, I continued to be interested in the work and progress of our newly organized diocese and contacted him by letter that I was available to aid him in any way. In 1926 Bishop Mardary requested that I marry immediately and then on the 28th of November I was ordained a priest.

2037 There are two types of priests in the Serbian Church. The Monastics are not married and then they progress to Bishop. Clergymen who are married before they are ordained have only two steps, deacon and priest, but they must be married, for once they are ordained no marriage may occur.

2038 I have personal knowledge of the purchase of the land in Illinois which is now used as the Monastery.

2039 Bishop Mardary told me that a Mrs. McCormick had promised him $100,000.00 after he returned from Yugoslavia as Bishop to organize an orphanage and old people's home. However, when he returned he found that there was no money and so he turned to his own people asking them to help him through their collections. With the money raised, he bought a small piece of land near Libertyville. The first purchase I believe was about 37 acres. There were a couple

of older buildings on the land, one of which became his diocesan residence. He engaged in physical work helping to build the monastery building that stands today. He initially bought the property in his own name. At the time the property was acquired Bishop Mardary was an Archimandrite. In 1921 there were approximately 26 or 27 Serbian Orthodox Church Parishes in this country. By 1963 I would say there were about 70 parishes. In May of 1935 Bishop Mardary called quite a few prominent men from the surrounding parishes and he told them that it was his desire that the property be taken out of his name and at that time he appointed seven men to become trustees.

I have read PX 91 which is a certificate of charter certified by the State of Illinois and I recognize the signatures on the document. Upon the issuance of the certificate of charter identified as PX 91 the corporation drafted no by-laws and nothing very concrete was done. The corporation did hold real estate under the St. Sava Orphanage in Libertyville.

Exhibit 92 is a certified copy of the articles of incorporation of a corporation incorporated on May 25, 1935. It is entitled the Serbian Eastern Orthodox Diocese of the United States of America and Canada. I recognize most of the names on page two of this document. This corporation did not to my knowledge have a constitution or by-laws. The only layman listed on page 2 of this document who is still living is Milan Radakovich of Milwaukee. No officers were ever elected to this corporation. I participated with two lawyers in the drafting of the constitution for the United States of America and Canada Serbian Orthodox Diocese. We eventually completed it prior to the first Sabor held in 1927. The Sabor was called

by Bishop Mardary and the call was issued to all the clergymen of both ranks and orders and to all parishes which had a pastor. The Sabor was held in Libertyville. My constitution was read aloud and discussed by members at the Sabor and with some minor changes was unanimously adopted. The approved text sent by the Sabor to the Holy Council of Bishops in Belgrade for their approval. I have knowledge that it was indeed approved.

I have examined PX 30 and can state that subsequently the constitution adopted at the Sabor in September of 1927 was amended. The constitution was amended by the Sabor of 1939 and these amendments were submitted to the Holy Counsel of Bishops of the Serbian Orthodox Church in Belgrade for approval. During the first Sabor which I attended there was no suggestion at any time that the Bishops of the Serbian Orthodox Church could be appointed as Bishops for the diocese of the United States and Canada by being elected by the Holy Assembly. Similarly no mention or suggestion was made of this at the Sabor of 1939. At the '35 Sabor Bishop Mardary expressed himself as wanting to have the property preserved by any possible means. In a meeting held on the 15 of May in 1935 he expressed his desire for a corporation to be formed and elected six persons as trustees. As far as my recollection goes no property was ever conveyed to that corporation. At the death of Bishop Mardary the Rev. Ristanovich was appointed as administrator until a new Bishop arrived. The new Bishop was the late Bishop Irinej Georgevich who arrived in 1937. He was appointed by the Holy Council of Bishops and the Patriarch as was the administrator. Bishop Irinej remained only

two months and then was recalled to Belgrade. He was succeeded in 1938 by Bishop Damaskin who was
2077 appointed by the Holy Assembly of Bishops and the Patriarch. He remained in this country for a year and a half and then left for Yugoslavia. In 1950 Bishop Dionisije was appointed Bishop by the Holy Assembly of Bishops and the Patriarch. No action was taken by the Sabor by way of approval of any of these appointments by the Holy Assembly.

2079 I attended all of the Sabors up to 1961. I was also present at the 1963 Sabor but not as a delegate, but as a priest from my parish. All of the Sabors held through the Sabor of 1960 were convened and held in accordance with the constitution of the diocese which I have identified as PX 30. This was not true of the 1963 Sabor. The first call for the Sabor was sent out in February, 1963, calling us for the convening of the Sabor in October of 1963. The calls had
2080 been issued by Bishop Dionisije in accordance with the constitution. Soon after that, the call was changed by the Plenum of the diocese which consists of the total of the elected officials of the Sabor of all branches. And they advanced the date of the Sabor to August 6, 1963. In light of my learning and the
2083 fact that I helped draft the constitution, I have no opinion as to whether or not the Sabor of 1963 was called in accordance with the constitution. The Sabor call did differ from that of earlier Sabors in that it was not invoked by the right people; the presiding Bishops of the Diocese.

2084 The Sabor was held on August 6, 7, and 8, 1963, in Libertyville. I tried to participate fully in the Sabor which was presided over by Bishop Dionisije. I was aware at the time of the suspension of Bishop Dionisije by the Holy Council of Bishops and Holy Synod on May 10, 1963. I attempted during the Sabor sev-

2085 eral times to get the floor to state from my own knowledge that the constitution made this Sabor illegal and that all acts performed and achieved at this Sabor would be null and void when they came before the Holy Council of Bishops and the Patriarch.

2088 Notice of the Sabor to be held in August of that year was sent to a number of organizations and groups who are not provided for in the constitution as being entitled to have such notice. These were members from the St. Sava Club, which is a political organization, the National Defense, Brtska Bomoch and others. I saw these groups in attendance at the
2089 Sabor in Libertyville and they participated in the voting.

2097 Article 16 in the constitution is the only article which deals with the subject matter of who is authorized to attend the Sabor. At the 1963 Sabor women were in attendance and were permitted to participate and vote. Article 16 of the constitution does not embrace women as authorized to attend the Sabor. They are similarly not authorized to vote.

2098 I was involved in the organization of the St. Sava Serbian Orthodox Church in New York City. I took
2099 charge of the congregation on January 1, 1942, as the parish priest assigned there by Bishop Dionisije. At that time they did not have a parish church building. Through friends in the Episcopal Church, I ob-
2100 tained a church building on East 116th Street for the use of my congregation. In 1942 I was successful
2101 in acquiring the plot of land we now own from the Episcopal church. The property was of tremendous value, but due to the fact that we were poor friends of the Episcopal Church, and they were anxious for

us to establish a center of our own, they sold us the property for $30,000.00. This property was, according to the estimates at that time, valued at $1,000,-000.00 or more. I took possession in March of 1943.
2106 Title of the property was placed in the hands of the corporation and seven members of the parish acted as trustees.

2108 PX 93LA is the charter of the corporation about which I just testified. The names of the trustees appear on page 2 of this document. I conversed with
2111 Bishop Dionisije in addition to receiving a letter concerning the incorporation of the church. The conversation occurred in New York City before we organized. Mr. Dusan B. Tripp was present at this con-
2112 versation. The consensus of opinion was that the
2113 matter of taking title should be handled as a corporation as it would provide safety for the property and appeal to the people. Subsequently, Bishop Dionisije
2119 and the trustees in New York of the New York Corporation decided it would be a good idea to transfer the title to another New York Corporation and this
2121 was done in 1953. I took part in the organization of the religious corporation named on page 1 of PX 94. The subject matter of the organization of this second religious New York Corporation was discussed with Bishop Dionisije.

2122 The corporation described in Exhibit 93 was or-
2123 ganized in 1942, and in 1953 the New York State Religious Corporation entitled Serbian Eastern Orthodox Church of St. Sava was organized. The signa-
2124 tures of Bishop Dionisije and Rev. Firmilian Ocokolich appear on the second page of this document. The signature of Dusan B. Tripp appears on the page numbered four of the Exhibit. The Canadian-American Diocese as distinguished from those corporations

has a pension fund of its own. I was one of the founders and initial dues paying members of the pension
2127 fund. I became eligible to draw funds from the pension fund in 1961 when I reached my 65th birthday. I applied for benefits and was granted $38.00 a month from then on. The payments terminated when I made my decision that I could not accept the conditions required by the diocese of the United States of America and Canada. I then recognized the new Bishop, Bishop Gregory, in Los Angeles. PX 95 is a
2128 communication putting me on the pension fund at my request in 1961. PX 96 is an open communication to all clergy dated March 22, 1965, under the signature of Archimandrite Dimitrije. He was the
2130 secretary of the Executive Board of the Serbian Eastern Orthodox Diocese and also of the ecclesiastical Court of the same diocese. I received a copy of PX 96 in my capacity as pastor of the Serbian Orthodox Church St. Elijah in Gary, Indiana. I came
2131 out of retirement in 1963 when I was called to the parish in Saratoga. They asked me if I would accept and I did subject to the approval of my then Bishop Dionisije. The approval having been granted I was their pastor. This was in January of 1963. Since I have become an active clergyman again I was not entitled to the pension which had been given to me by the decision of the proper authorities and so I did not insist upon asking for that sum of $38.00 per month.

2132 In 1964 I was called to another parish in Gary, Indiana, to help organize it with the blessings and approval of the diocesan Bishop Firmilian. After
2132 working in other churches I finally retired for good in July of 1968 and went to San Diego to live.

PX 97 is a letter which my attorney wrote to Bishop Dionisije in my behalf. PX 98 is a letter dated September 3, 1968, under the letterhead Serbian Eastern Orthodox Diocese for the United States of America and Canada addressed to my attorney in reply to his letter and signed by Bishop Dionisije. The part of the letter which states "I am sorry to inform you that the Very Right Rev. Doushan Shoukletovich lost his right to receive pension from our diocesan pension fund according to our pension fund by-laws which were confirmed by the Holy Synod of Belgrade since he passes to another diocese and accepted to be a parish priest of it" refers to the Western Diocese of which Bishop Gregory was Bishop. Under the pension plan rules prior to 1963 those who had fulfilled the conditions provided for in the pension fund regulations and who had reached the retirement age or were disabled from carrying on any work were entitled to benefits. At the time of my retirement I was a priest of the diocese which I mentioned. Following my retirement, when I became a parish priest again on two occasions, I did not make additional payments to the pension plan because the fund was held by Bishop Dionisije who was not recognized. The pension fund was established in the early 50's and up until the time of my retirement I made payments to it.

When I testified earlier whether any property had been conveyed to the first corporation, the orphanage corporation, I stated none had been conveyed, but that was an error. It is a fact that Bishop Mardary conveyed the Monastery property standing in his name to the monastery corporation. I also stated that no property had been conveyed to the second corporation and I wish to make a correction there.

It is a fact that the property that had been conveyed to the orphanage corporation was after the death of Bishop Mardary conveyed and transferred to this 1955 corporation.

Cross Examination.

I was well acquainted with Bishop Mardary during his lifetime and had known him for a period of sixteen years. He was born in Montenegro about 1889. I do not know when our churches went under Russian jurisdiction. I do not know where he attended school. I do not know where he was prior to becoming a Bishop. I am not aware of what seminary he graduated from or when he was ordained a priest. I do not know which church ordained him as a priest. I do not know which church sent him to this country. I received my information that the Serbian Churches in America were under the Russian Orthodox Church from my contacts with priests here in America. All I learned was that they recognized the jurisdiction of the Russian Bishops. I was in Lorain, Ohio, from December 1st, 1926, to December 31st, 1927. I was organizing the parish, bringing the people together for worship, having school with the children, organizing the ladies' society, buying land, collecting money and making plans to get the church together. I also went down to Akron as there were no churches there to help the people with their sacraments. I did not work in any kind of steady church work other than these two places at that time. I did some work in Libertyville as I was a member of the ecclesiastical Court. I attended the Sabor in 1927 at Libertyville, Illinois. I traveled directly from Lorain, Ohio, to Libertyville leaving Lorain a couple of

which was read word for word to the Sabor. The constitution drafted in 1927 was read paragraph by
2165 paragraph to the Sabor. Article II was also read to
2172 the Sabor. The 1939 version of the constitution refers to the area as the Kingdom of Yugoslavia whereas the 1927 copy refers to the Kingdom of Serbs, Croats and Slovians.

Article III was read to the Sabor.

2173 Article IV was read to the Sabor.

2174 Article 9 was read to the Sabor, "The Bishop of the Serbian Eastern Orthodox Diocese in the United States of America and Canada is appointed by the Serbian Orthodox Patriarchate. There was no phrase following which stated after a prior agreement with the diocesan council. I do not remember if the state-
2184 ments, "The Bishop of the Serbian Eastern Orthodox Diocese in the United States of America and Canada is appointed by the Serbian Orthodox Patriarchate after a prior agreement with the diocesan council," was ever submitted to the Holy Assembly of Bishops for approval. Article 23 of the constitution at para-
2194 graph 8 states "that the Diocesan Assembly, after it is constituted, performs the following work: decides about changes and amendments of the constitution."

2195 DX 7 is a letter dated October 7, 1927, and I recog-
2197 nize the signature on this letter as that of the late Bishop Mardary. Between the years 1920 and 1924
2198 I was a student in the Seminary at the New York
2199 University. I quit school due to my health and remained in New York until 1926. During the period of my studies I had no other occupation. I went to
2200 Libertyville, during this period in 1923 and then again later, I went there on a vacation to see what
2203 was going on. The diocese had representatives from

days before the Sabor was scheduled. I had been in Libertyville prior to this occasion when I was work-
2156 ing with three lawyers on the constitution. There was a committee for the preparation of this constitution consisting of His Grace Bishop Mardary and the priests from Chicago, Indiana Harbor, Detroit who did research in preparing the text which we then submitted. There was an assembly committee for the final draft of Silaski, of Akron, myself, Kosta Elisin of Detroit, Michigan, and Z. Bunichich, an attorney from Akron.

2157 They did their work on the final draft after the committee for the preparation had submitted their research and work. That work could have been done in Libertyville on the first, second, and third of September, 1927. This is the time at which I worked on the final draft. This is not the only time I worked on the constitution; I do not remember at what time prior to this or the exact dates. This constitution
2158 which the committee for the final preparation had
2159 prepared in the committee for the final draft had reviewed was read to the Sabor at their meetings of September 1, 2, 3 and 4, 1927.

2161 I read to the Sabor article I which states, "The Serbian Eastern Orthodox Diocese in the United States of America and Canada Ecclesiastically and canonically is considered as an organic part of the Serbian Patriarchate in kingdom of Serbs, Croats and Slovians and enjoys all benefits which therefrom appertain."

2162 A pamphlet in Serbian marked PX 99 for identification is the Serbian text of the constitution that
2163 was finally adopted. Some amendments were added
2164 between 1927 and 1939. Therefore, these two documents are not an exact copy of the 1927 constitution

the eastern region and western region as there were
2204 two Presbyteries. My conversation with the Presbyteries was in '25 or '26 and perhaps earlier.

2205 I have personal knowledge that Bishop Mardary purchased 37 acres of land in Libertyville although I cannot be certain of the exact amount. I had knowledge that Bishop Mardary intended to use the land for the present monastery. He told me this during
2207 1924. I do not remember if Bishop Mardary stated who he purchased the property from or what the price of the property was or if he made a down payment on the purchase price or what the nature of the balance and payments would be. I attended the 1931
2208 Sabor. I do not remember a very heated discussion at that time relating to this property. I have no recollection that $31,000.00 of indebtedness attached to this property and the buildings on it. I do not remember an action at the Sabor as to whether or not the Sabor should assume and pay a debt of $31,000.00 on this property. I recall the circumstances of Bishop Mardary's death at the Monastery and the fact that he spent some time in the Ann Arbor Hospital in Michigan. I was not aware that the Bishop left
2209 a $3,000 unpaid hospital bill. I do not know that the Bishop died without funds. I had no knowledge that Bishop Dionisije paid the $3,000 bill left by Bishop Mardary in 1942. I am acquainted with Michael Pupin. He was the Serbian inventor and a professor at Columbia University and a great benefactor and philanthropist. I have heard that Michael Pupin paid a portion of the debts left by Bishop Mardary but I am not aware of the amount.

2211 I had nothing to do with the incorporation of the Serbian Eastern Orthodox Council of the United States and Canada in 1927 or the incorporation of

the Serbian Eastern Orthodox Diocese in 1935. I was at one time a member of the Diocesan Council in the
2212 early 50's. I was a member of the Ecclesiastical
2213 Court from 1927 to the early 50's when I received a letter from the Bishop that in view of the long distance between New York and Libertyville he was adding another member of the Ecclesiastical Court to replace me. Later on in the 50's that same Bishop reappointed me to the Court until 1960 when I went to Gary, Indiana, to go to the post. Later still, I continued to be a member of that Court appointed by the New Bishop.

2214 The Western Ecclesiastical Court is the Court for the Western Diocese of which Bishop Gregory is the Bishop. It is one of the dioceses created by the actions of the Holy Bishops' Assembly on May 10, 1963. I had also been a member of the Ecclesiastical Court from the Midwestern Diocese which was similarly created by the Holy Assembly of Bishops on May 10, 1963, of which Bishop Firmilian is the Bishop.
2215 Between 1927 and the early 50's, The Ecclesiastical Court met only when the Bishop called it and this
2216 did not occur too often. The Ecclesiastical Court was not part of the Plenum. At no time was I ever
2217 an officer or director of the Serbian Eastern Orthodox Diocese of the United States and Canada, an Illinois religious corporation. I have no recollection of ever having discussed this Illinois religious corporation with anyone. I have no personal knowledge of the affairs of this corporation. I have no per-
2218 sonal knowledge of any of the affairs or the activi-
2219 ties of this corporation. I am not familiar with Illinois law governing religious corporations. I was not officially a delegate to the 1963 Sabor but came

as a priest of long standing interested in the welfare of my church. As a priest I have a vote. The
2220 1963 Sabor was held in Libertyville where all the
2221 others have been held. The primary topic of conversation that I engaged in was the legality of the Sabor. I remained at the Sabor until almost the
2222 very end. I arrived at the Monastery on the morning
2223 the Sabor opened. At the time when the first Bishop came here, which was in 1926, there were about 26 or 27 Serbian Orthodox Parishes in this country and in 1963 there were about 70 parishes in existence. I do not know how many parishes existed in 1940. I received notice of the 1963 Sabor in the mail at the parish. The notice was sent to all the clergy of both orders and to the parishes. Some of the groups at
2224 the 1963 Sabor were the same as those who had been
2225 at the 1960 Sabor. The Federation of Serbian Sisters were present at the 1960 Sabor and has some delegates, but I do not know if they voted. I did not protest the fact that the ladies attended the 1960 Sabor.
2227 I was assigned to the New York Parish by Bishop Dionisije, January 1, 1942. I made regular reports to the Bishop whenever needed or requested. The
2233 reports I made to Bishop Dionisije related to my activities in the New York Church. I do not recall any delegation appointed by Bishop Dionisije to talk to Bishop Manning. My first conversation with Bishop Manning was in January of 1942 alone in his
2234 office. I reported the conversation to Bishop Dionisije concerning the obtaining of a Church for Serbian Services. It is possible that a delegation consisting of the vice president of the diocesan council, Mr. Martinovich, Bishop Dionisije, and Mr. Dusan
2235 Silhkai met with Bishop Manning in 1942. The agreement with the Episcopal Church was concluded by

the diocese and the delegation which was just mentioned and the delegation helped conclude that agreement with the Episcopal Church. The agreement was for the purchase of the property for $30,000.00 and if at any time the property ceased to be used as a church it would return to the Episcopal Church.
2239 Exhibit 93-A contains the six signatures of the persons who were officers of the New York corpora-
2240 tion. The president of the corporation was D. B.
2241 Tripp. The corporation had meetings but I do not remember the dates of them. I do not know who presided at the meetings and I don't recall ever hav-
2242 ing attended one. I have examined PX 94 and on page 3 is the signature of Bishop Dionisije and he has signed in the capacity of president. Beneath the
2243 signature of Bishop Dionisije is that of Rev. Firmil-
2244 ian Ocokolich. I have seen the seal in Libertyville bearing the legend, "Serbian Eastern Orthodox Diocese for the United States of America and Canada, Inc., May 22, 1935," with word "Illinois" at the bottom of the seal. Ordinary documents coming from Libertyville would not have this seal and I do not recall what documents I have seen it on. I can re-
2245 member having seen the seal during the period of
2248 1935 to 1942. I presume the seal which I saw in Libertyville was the seal of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation. Al-
2249 though I can recall the Sabor held in 1935, I do not remember the exact dates nor do I remember how many days the Sabor covered. I believe I attended every session of the Sabor in 1935 and Bishop Mardary did attend the Sabor. I do not remember the proceedings that were held at that Sabor in detail.

When the Episcopal Church conveyed the New York property it was conveyed to the New York Corpo-
2250 ration. This was the corporation referred to in PX 93. I believe that the sale was made in early '43 as the corporation was formed in 1942. I do not know now where the title to that property is.

2251 I first retired in June of '55 staying in retirement for six months, returning to work as a priest on January 1, 1956. I continued in active service as a priest from January 1, 1956, to July, 1960 at which time my second retirement began. This lasted 2½ years. In January of 1963 I started active service as a priest for one year and this time I remained retired for three months. In April of 1964 I started active service again until August of 1965. In January of 1966, I resumed my activities as a priest.
2253 From January of 1966 until July of 1968 I was an active priest and then retired again for the fourth time. At the occasion of my first retirement there was a banquet given for me in New York City. The parish gave me $500.00 in cash and two bonds of
2254 $250.00 each. On my second retirement in Gary another banquet was given to me and the parishioners there gave me some money, but I do not recall the amount. On that occasion they gave me an automobile which was a 1960 Ford Galaxie. On the occasion of my third retirement there was no banquet except a friendly dinner.

2255 This occurred in San Jose, California, and I did not receive any money at this time; however, they gave me some luggage. After retiring from San Jose, I had occasion to go back to Gary and retire there again and at this time another banquet was held and they gave me some money. I do not recall the exact amount and the church was St. Elija Ser-

bian Orthodox Church of Gary, Indiana. While serv-
2256 ing in Gary at St. Sava, I had two banquets and at the first of them I received cash. It could have been
2257 in excess of $1,000.00. At the second banquet I received cash but I don't recall the amount. On my fourth retirement I received cash also but I do not recall the amount. Finally, I retired from the Bay
2258 area which could be called my fifth retirement. I received a banquet on that occasion in Oakland, Cali-
2259 fornia and they gave me a little money, but frankly, I do not remember the figure. It was not in excess of $1,000.00. These are the only five times I have retired.

2260 I received a letter from Bishop Dionisije under the date of April 25, 1961, granting me a pension at my request of January 1, 1961. I do not remember if it was mentioned that there was a physician's recommendation in that letter or whether I sent a physician's report with the request for the pension. I have, on different occasions, been afflicted with asthma, hay-fever, and a bronchial condition. I was granted a pension on the basis of those illnesses and of my
2261 age which was 65 at that time. I don't remember ever having written a letter to the diocese relating to my pension other than the application made in 1961.

2262 In the early part of 1963 Bishop Dionisije and I had a conversation concerning the pension. It occurred in front of the El Cortez Hotel in San Diego and at that time I complained that since I was a priest of the newly organized church in Saratoga I was without pay until the end of May and I did not receive my pension checks. I do not remember if I
2263 said anything else to him about it. Bishop Dionisije said he would correct the mistake. I have examined

PX 98 which is a letter to my attorney dated September 3, 1968, the last line of which states, "Moreover, he was warned to continue his annual payments to his pension fund which he neglected." I received a copy of this letter which was shown to me by my attorney. I stopped making payments to the fund when I became eligible for my pension in 1961. I do not recall if I ever made any payments to the pension fund after that.

The last sentence in that letter states, "Enclosed is our warning letter which you can have handed to him and he might translate it in English for you." My attorney gave me this letter which was written in Serbian. I translated it into English and gave a copy to my attorney. PX 96 is a copy of the letter which was sent by Bishop Dionisije to my attorney. I have made some study into the background of the Serbian Eastern Orthodox Church in the United States.

I do not know if Bishop Mardary was elected to the Sabor of the Russian Orthodox Church in Cleveland in 1919 as a Bishop in the Russian Orthodox Church. I do not know if Bishop Mardary was under the jurisdiction of the Russian Orthodox Church until he went to Serbia in 1921. I was aware that there were church school congregations forming in the United States of America by Serbian People prior to 1920. I was not aware that there was a church school congregation in Jackson in 1894, but I do know that a small Serbian Orthodox Church was built there. When I arrived in 1920 there were 26 or 27 Serbian Orthodox parishes in existence in the United States.

When I was studying theology my studies did not include the activities of the Serbian Eastern Orthodox Church in the United States and Canada nor did I make any individual studies in particular in connection with those activities.

My first contact in the United States was with Holy Resurrection Church in Chicago in 1920. Serbian Orthodox Churches architecturally are distinct in that they have an ikonstas which separates the sacristy from the main part or body of the church. It is like a separating wall on which are certain ikons but that have to be in a certain order to be accepted as proper Serbian Orthodox Church regulates. Holy Resurrection was a very small two story building which was not long enough for all the required ikons to be displayed. The priest at that time was Archimandrite Mardary. On the outside, a sign announced that this was a Serbian Orthodox Church.

From my theological education and studies and my information gained as the priest in the Orthodox Church, I can state that the patriarchate of the Orthodox Church was formed in Serbian in 1346. Serbia was in existence in 1846. The current patriarchate was formed after the First World War although the election of the patriarch was in the early 20's. Although a dormitory was constructed after the purchase of the property Bishop Mardary acquired, I do not know if the Circle of Serbian Sisters paid $110,000.00 for that construction. I do not know if there were $70,000.00 of repairs made to the St. Sava Monastery in the early 1940's. I do not know if the monastery property was once placed up for sale at a sheriff's auction. I do not know if improvements on the monastery were paid for by donations from American-Serbs or if any of the money came from the Patriarchate. There has never been an

orphanage on the St. Sava property in Libertyville, nor has there been an old folks home. I do not know the specifics of any property acquisitions to the original tract in Libertyville.

Redirect Examination.

I have examined PX 101 A and at the bottom of that document appears the signature of Bishop Dionisije. After I applied for my pension this document was sent to me as proof that I had been pensioned.

The parish on Schiller Street was Holy Resurrection and architecturally it was a house with a sign saying it was a church and a cross on the top. Following my conversation with Bishop Dionisije in San Diego, I received pension payments for four months. These were for $38.00 a month. I received a few more payments later on in 1963. I have received no pension payments since then. The banquets I attended at retirement were occasions of honor for the work I had done for the parishes. I received plaques, testimonials and mementos at each. I recall a meeting in 1935 of the National Serbian Federation held in Milwaukee and adjourned to Libertyville. My earlier testimony that a Sabor was held in '35 is a mistake as what I recalled was the adjourned meeting of the National Federation.

Bishop Mardary died December 12, 1935. He was quite a sick man and only made an appearance at the National Federation. Bishop Mardary told me in a conversation at Libertyville in 1935 that the necessary money for the building of the orphanage and old people's home had not materialized and he could not fulfill his own desire and dream of having an orphanage and old people's home in the monastery at Libertyville. The Bishop further said that he wanted to create an organization to bring about fulfillment of his desire.

PX 102 is in Serbian and has the date September 1, 1927, Libertyville, Illinois, on it and there is a single title "a Minutes" where the minutes refer to the president they are referring to Bishop Mardary.

Recross Examination.

The meeting attended by members of the Federation in 1935 was held on Labor Day. It was usual procedure to have a celebration at the monastery on Labor Day. This one referred to in September of 1935 was a Labor Day celebration. Having read the minutes of the fourth session held on September 4, 1927, in which reference is made to the assembly of May-June, 1927 this refreshes my recollection as to the fact that a celebration was held in May which I would call an Assembly. In the church it is actually called a Sabor, but is not in the same sense that an official Sabor is held. It is a gathering of people who have a good time. I do not recall if I spoke at the Sabor held on May 29th and 30th at the Monastery in 1927. I was a parish priest in Lorain, Ohio, at that time.

Redirect Examination.

I do not know of any Sabor in the sense of an assembly of people and delegates of the diocese in 1927 other than the Sabor about whose minutes I have testified. To my knowledge there were no minutes of the celebration of May 28, 29 and 30, 1927. There were no minutes of the meeting or celebration held on Labor Day. This was not a Sabor in the sense of a meeting of the people and delegates of the diocese.

2339 MILAN RADAKOVICH testified as follows:

Direct Examination.

2340 My name is Milan Radakovich and I reside at 2643 South 8th Street, Milwaukee, Wisconsin. I have been a resident of Milwaukee for 57 years having come there in 1912 from Austria. At that time I was 19 years of age having been born in 1893. I am now 76
2341 years old. I am a member of the Serbian Orthodox Church and have been a member since birth. I was born in Gacista which is in Yugoslavia now, but at
2342 that time was in Austria. I met Bishop Nicholai in
2344 1921. I held several offices in my local church and
2345 from 1931 until 1941 was treasurer of the Serbian Orthodox Diocese for the United States and Canada.
2346 At one time I served as president of the auditing committee of the diocese.

2353 Plaintiff's Exhibit 9, purporting to be the charter of the corporation of which I was a trustee, refreshes
2354 my recollection as to who was assembled with Bishop Mardarije at the Libertyville discussion concerning my service as a trustee. Bishop Mardarije told
2356 everyone present that a corporation had been formed to hold the monastery property and the rest of the real estate in the diocese. I served with these other gentlemen as a trustee of that religious corporation.
2358 I am the M. Radakovich of Milwaukee listed in the certificate of incorporation on page 2 as trustee of that religious corporation. The date of it is May 15, 1935. Other than the meeting which we had with Bishop Mardarije in Libertyville 30 days after the corporation was organized, the trustees never held a
2360 meeting. To the best of my knowledge, no by-laws were ever adopted for this corporation. To the best

2361 of my knowledge, no constitution was adopted. To my knowledge, no resolution was ever presented to me as a trustee for action. (Offer Of Proof.) I never heard of any resolution being presented to my co-trustees. (End Of Offer Of Proof.)

2362 As a trustee, I was never called upon to sign any deed or any other document or paper on behalf of the corporation nor was any ever presented to me by anybody for that purpose. To my knowledge, no board of directors was ever selected nor was there ever a treasury. To my knowledge, the corporation never had money whatsoever.

2364 I am acquainted with the fact that Father Brkich applied earlier this year for assignment for a priest
2365 in my parish. I participated in discussions in considerations of that application with friends in private meetings and other gatherings we would have. The younger generation in the parish prefer the priests that were born in this country and that is eventually what happened. That is the reason Father Brkich's application was declined.

2366 I have attended and been a delegate to a number
2368 of Sabors. At no time did I ever observe or become aware of the taking of the record of the proceedings of a Sabor by a taperecorder. This is likewise true of all the council meetings which I attended. I at-
2371 tended a meeting in Libertyville on June 6, 1963, of a group called the Plenum. The purpose was the discussion of a report from the Patriarch in Belgrade directing Archimandrite Firmilian to take of the old
2372 diocese. The meeting was called by Bishop Dionisije.
2373 I was a member of the council of the diocese at the June 6, 1963, meeting and attended in that capacity.
2375 I do not recall how long the meeting lasted. Archi-

mandrite Firmilian was not present when the meeting
2376 opened, but arrived later and stated that he had received the letter from Belgrade to take over the diocese from Bishop Dionisije. He read the document at the meeting to that effect. It was my im-
2377 pression that this document was sent from the Holy Synod in Belgrade. Bishop Dionisije stated that he was not going to turn over the diocese.

2379 To the best of my recollection, there was no tape-recorder present at this meeting nor was any mention made by anyone that the whole meeting was being taped. No one ever requested my consent to record the meeting on tape.

2381 I have not received any notification from 1935 to the present concerning the termination of my trustee-
2382 ship. At no time did the sale of any property belonging to the 1935 corporation, of which I am a trustee come to my attention.

Cross Examination.

2388 When I arrived in the United States in 1913 there were approximately 5 or 6 other parishes in the country.

2391 I talked with Bishop Mardary two or three times about the corporation. To my knowledge I do not
2392 know whether the corporation ever had any board meetings, or whether or not it had a constitution, or whether or not any corporate activties were conducted at all. I am not familiar with Illinois law relating to religious corporations.

2393 My religious background consists of four years of grammar school and two years of high school in Austria. I never studied law nor theology. In Milwaukee, I owned a restaurant for 26 years and now

I am an insurance agent. I was at the meeting of the
2395 Executive Board of the Serbian Eastern Orthodox Diocese of the United States and Canada in May of 1963 when it voted to call a Plenum meeting on June 6th, 1963. I do not recall any of the conversation at
2396 that meeting. In 1931, when I was elected treasurer,
2397 the diocese was $31,000.00 in debt.

2398 *Redirect Examination.*

When the Milwaukee parish was organized there were 300 to 350 memebrs which is not to include
2399 women and children but only male members. Although I do not recall verbatum the discussion held at the meeting of June 6, 1963, my memory is clear regarding the substance of the conversation between Archimandrite Firmilian and Bishop Dionisije.

2425 MILAN RADAKOVICH testified as follows:

Redirect Examination (Continued).

2426 I have examined Defendant's Exhibit 11 which are the original minutes of the 1931 Sabor. This
2431 document is signed by Bishop Mardary.

2433 *Recross Examination.*

2434 Bishop Mardary's signature appears under the heading president and on the left side of the signature page is a large heading secretaries and then there are also two unnamed secretaries under that. In the center of the page is the heading witnesses and under it are two signatures of the persons who witnessed the signing of the minutes.

Further Redirect Examination.

This was a Sabor at which I was first elected a member of the council. On page 18 of these minutes paragraph 3A recites that I was elected treasurer of the diocesan board unanimously.

BISHOP FIRMILIAN OCOKOLJICH testified as follows:

Direct Examination.

My name is Bishop Firmilian Ocokoljich and I was born January 7, 1910. I am a Bishop of the Serbian Orothodox Church and was born in the Village of Kaona, Serbia, which is now Yugoslavia. Both my father and my grandfather on my mother's side were priests in the Serbian Orthodox Church. My twin brother is a priest in Serbia, and my two nephews are priests in this country; one in Pittsburgh and the other in Chicago. All of my cleric relatives pay allegiance to the Serbian Orthodox Church with its Patriarchate in Belgrade. My education consists of four years in grade school, four years in gymnasium, five years at the theological seminary, four more years in the theological faculty, and during the war I attended graduate school at Oxford University. I completed my education at the University of Chicago, where I received a Doctorate in Medieval History. I was ordained in October of 1931, first as a Deacon, and two days later as a priest. I was ordained by the late Bishop Jefrem Zhica. I was ordained in the secular order and immediately began working as an assistant to my father in his hometown parish.

My wife died in 1934 and I was assigned to teach in a grade school in Belgrade, and at the same time

I enrolled to study at the University of Belgrade Theological Faculty. I was then appointed clerk of the Holy Synod and was then instructed to go and teach in the Serbian Orthodox Seminary in Cetinje. I returned to Belgrade in 1938 and resigned my position as clerk in the Holy Synod and went to the Monastery of Ocosokovo, where I became a Monk. At that time I took the name Firmilian. In 1939 when Bishop Dionisije was elected Bishop of the American-Canadian Diocese by the Holy Assembly of Bishops, he wrote me a letter and asked me to go with him and help him. I accepted that invitation and in 1940 we came to the United States together. The Bishop appointed me secretary of the Diocese with an office on Dearborn Street in Chicago. A few months later the bishop moved the office to St. Sava Monastery in Libertyville, and that is where I worked. I served services in the Monastery on Sunday and also was appointed to serve in the Serbian Orthodox Church of St. George in Joliet. In 1941 I was appointed by Bishop Dionisije to the congregation of St. Lazazrus in Detroit, Michigan, where I served until 1943, when the Bishop asked me to go to England. Once there, I was appointed to be Assistant Priest to Father Ristanovich, who was serving at that time in London. The Government of Yugoslavia was in exile in London and I used to go and teach Prince Tomislav and Prince Andrey religious instructions in the Serbian language. During this period I enrolled in Oxford. After the war in 1954, I was recalled by Bishop Dionisije and reappointed secretary of the American-Canadian Diocese. The rector of the Holy Resurrection Church in Chicago became ill and the bishop appointed me to help him, and when he died I was elected to be pastor of that church. During this period I

still served as secretary to the diocese and travelled between Chicago and Libertyville receiving instructions from the Bishop and attending to correspondence. Bishop Dionisije organized a seminary in Libertyville and I came from Chicago to teach five or six Monks who were studying there different subjects.

In 1949 the Bishop instructed me to resign my position in Chicago and appointed me priest of the Ser-
2524 bian Orthodox Church of St. George in Pittsburgh. We were having difficulties with that church as the congregation did not belong to the Diocese, and the Bishop told me I had six months to solve the problem. At that time some of the congregation were involved in litigation. They had elected a Russian priest and some of the people wanted a Serbian priest. At an annual meeting of the congreation I was elected priest and confirmed by Bishop Dionisije. I immediately began working to solve the problems of that congregation and in about two months the members decided to join the Diocese. That was the only Serbian congregation in America outside of the Diocese and they changed their charter in this respect and were registered. Originally, the church was St. George Serbian Orthodox Church, but later on they added Independent Serbian Orthodox Church. Then again in 1949 they eliminated that independent and
2525 became the Serbian Orthodox Church of St. George and joined the Diocese. After I successfully finished my assignment which took about eleven months, Bishop Dionisije asked me to return to Libertyville. After
2526 my return the Shadeland property in Pennsylvania was purchased. It is about six miles south of Albion and about 35 miles south of Erie.

2527 I collected money from the Serbian people in the American and Canadian Diocese. When I arrived at Shadeland all of the 1,400 acres had been acquired. The property was first bought by Bishop Dionisije
2528 personally and then the Diocesan Council decided to take over the property and the bishop received from the diocese the money he had invested in this property and he turned the property over to the diocese. Diocesan funds were used to reimburse Bishop Dionisije. The Serbian National Federation collected some money from the people in the diocese and paid the balance of the mortgage on the Shadeland property. When the diocese purchased the Shadeland property from Bishop Dionisije, the property was then burdened with a mortgage which was later paid. These Serbian people were members of various congregations of the church. The Serbian National
2529 Federation is a benevolent national organization throughout America and Canada organized about 70 years ago and they really helped collecting money from the Serbian people to pay off the mortgage. When I was at Shadeland trying to collect money I wrote to Mr. Samardick in Omaha whom I did not know but who was a member of the Serbian Orthodox Church of St. Nicholas in Omaha. I expected that he would send $50 or $100 but one day I received a letter
2530 from him informing me that he was going to donate $5,000 toward this property. In 1953 he sent two men, Mr. Zemunski and Mr. Churchich, who came to see the property and were amazed at its size and the work we were doing. They told me they would return and give a good report to Mr. Samardick. Then Bishop Dionisije instructed me to return to Libertyville and appointed Father Irinej Kovacevich to take my place

at Shadeland. In 1956 I resigned my position as sec-
2531 retary and Bishop Dionisije accepted it. I had previously been appointed a bishop's deputy which is a position provided for in the Constitution of the Serbian Eastern Orthodox Diocese for the United States of America and Canada that when a bishop is sick but not able to attend different meetings I as bishop's deputy according to these instructions was to take his place and preside over the meetings, but only according to his instructions. I remained in that post and was elected and appointed priest of St. Sava Cathedral in New York in '57. I was appointed to the office of bishop's deputy in 1946 and remained so
2532 until 1963. Serving in New York was very difficult as the parishioners were spread out through New Jersey, Connecticut, and Massachusetts and there were large numbers of refugees coming to the United States from Yugoslavia through New York. I tried to provide them with funds and help them find jobs.
2533 The National Council of Churches is an organization of all Protestant and Eastern Orthodox Churches with their headquarters in New York and Bishop Dionisije appointed me to represent the Serbian Orthodox Church in New York in the National Coun-
2534 cil of Churches. I also represented him occassionally at the standing conference of Orthodox canonical bishops which was organized in New York and is an organization representing the different orthodox churches including the Serbian Orthodox Church. I went with Bishop Dionisje to the organizational meeting and I was elected general secretary of the organization. I continued in that position until 1962 when I resigned from the parish in New York and came to Pittsburgh. While in New York I was elected

2535 assistant professor at St. Vladimir's Theological Seminary.

2537 When the delegation headed by Metropolitan Damaskin arrived, I was ordered by Bishop Dionisije to meet them at the airport. The mission of the delegation was to discuss with Bishop Dionisije some problems of the church in the United States and Canada. The bishop had proposed that his diocese should be levied to the rank of Metropolia and he asked that more bishops be elected. He had made this request
2538 to the Holy Synod of the Serbian Orthodox Church and to the Patriarch and Holy Assembly. The dele-
2539 gation returned to New York and I again met them at the airport and provided lodging for them under instructions from Bishop Dionisije. I received the communication at the end of October in 1962.

2540 PX 116 is a translation of a letter I received from Bishop Dionisije on or about October 27, 1962. Part
2543 of this letter contains a reference to the bishop's desire that I be made one of the Vicar Bishops in the event there is an assistant bishop appointed. I re-
2545 plied to his letter stating that I would accept were I nominated as a bishop. The letter goes on to state
2547 that the bishop wants a successor from this country and mentions the fact that there are two groups trying to unseat him as bishop. The Ljotic group is a political organization in Yugoslavia organized before the Second World War and some of them came to
2548 the United States. The devernja refers to a profes-
2549 sor of theology who is not a cleric. On page one is a reference to the fact that the Constitution provides that his Holiness the Patriarch is the only one permitted to have a Vicar Bishop and the Constitution referred to is that of the Mother Church. The Dras-

kovic group referred to in the last line of this paragraph is a political group of Serbian people in America headed by Dr. Draskovic who is not a medical doctor but holds a Ph.D. The Nikola Stepanovich mentioned in the fourth line is an attorney from East Chicago, Indiana, and has been sitting at counsel table here. In November of 1962, I had occasion to attend the meeting of the Diocesan Board of the Serbian Orthodox Diocese of the United States and Canada. This meeting was called by Bishop Dionisije at the Libertyville St. Sava Monastery. I examined PX 115 which is a list of the clergy and laymen present at that meeting. The visiting delegation consisting of the two bishops and the protodeacon attended this meeting of the Diocesan Executive Board. At the close of the Diocesan Executive Council meeting the delegation returned to Yugoslavia.

FIRMILIAN OCOKOLJICH testified as follows:

Direct Examination continued.

After telling Bishop Dionisije that I would accept the position as Vicar Bishop I resigned my position at the parish in New York and at St. Vladimir's Seminary and prepared to accept the new assignment to Bishop Dionisije. I was then told with Metropolitan Damaskin on one of his several visits to New York that Bishop Dionisije had changed his plans. I believe this was prior to the November 1962 meeting of the Diocesan Executive Committee. Then Bishop Dionisije reported to the Executive Council, Diocesan Council, and Diocesan Executive Council on November 23rd that I was appointed priest of St. Sava parish in Pittsburgh, Pennsylvania. I served in that

parish from December 9, 1962, to the middle of June 1963. In June of '62, I received a communication from Bishop Dionisije and PX 117A is a document I received by mail about June 30th. It is signed by Bishop Dionisije. The document begins, "Greetings and blessings," and continues, "since our announcement of June 1st of this year it looks." This was the so-called important announcement and was labeled as such by Bishop Dionisije. The announcement was carried in Serbian newspapers in America. The publication of the announcement had an effect on Serbs in this country. I was personally acquainted with the effect on these people. Bishop Dionisije came to New York about June 20th to participate at my invitation in an annual so-called June celebration and at the same time he consecrated a new Ikonstasis in the church of St. Sava in New York. When I met the bishop at the airport I told him of the important announcement was receiving very heavy criticism from the people of my parish and that I myself expressed displeasure. I said "Your Grace, this important announcement is like you declaring war on the Serbian Orthodox Church." He explained that he had received a report from Father Brkich from Belgrade and that was the reason he wrote the important announcement. A few days later I received the letter which is PX 117.

When I read this communication I was very happy and read it openly in my parish in New York. The letter is dated June 30, 1962. There was a meeting of the Diocesan Executive Board on April 17, 1963, in the residence of the Bishop at St. Sava Monastery in Libertyville. I attended the meeting. PX 85 is an English translation of the Resolution made at the

meeting of April 17, 1963, by the Diocesan Executive Board. The original Resolution was signed in Ser-
2630 bian by each of those whose names are listed on page 2, including myself. The Resolution was put to a vote by all of those who were present and they voted for the Resolution unanimously. The Resolution was
2631 then mailed to all of the clergy and published in the Serbian newspapers. During the discussion proceed-
2632 ing the adoption of this Resolution, Bishop Dionisije asked what the Executive Board would do in the case he was removed by the Holy Synod, and this statement was in answer to his question. Bishop Dionisije voted for this Resolution and signed it. On May 8
2633 and 9, 1963, we had a meeting of the clergy brotherhood of the American-Canadian Diocese in Lorain,
2634 Ohio. Bishop Dionisije attended that meeting as did a majority of the clergy of the Serbian Eastern Orthodox Diocese for the United States and Canada. Those from the West Coast generally did not come, as it was too far. Two clergymen were selected from
2635 the group to write a Resolution which was read and corrected by Bishop Dionisije, and then all of us who participated signed the Resolution. PX 86 for identification is a two-page document entitled Resolution of the Annual Meeting of the Clergy Association held May 8 and 9, 1963. On Page 2 is a list of names who are the members who attended that meeting and
2636 signed it. Bishop Dionisije was the first one to sign
2641 the document. I believe the original copy of this Resolution was taken by Father Tomich who was then President of the Association. I know that this document was used in Cleveland, Ohio and I am positive you can obtain a photostatic copy of the original doc-
2642 ument. I have not seen the original copy of this document from the date of signing to the present day.

2643 The document was read to me at the time I signed it.
2645 Offer of proof. PX 86 is a correct and accurate translation of the document which I signed in Lorain on May 8 and 9, 1963. End of the offer of proof.

At that meeting we decided on further action and sent a telegram to the Patriarch and Holy Assembly of Bishops stating again our loyalty to the Mother
2646 Church. PX 118 is a telegram to which I made ref-
2647 erence. There is a list of names on the telegram including Bishop Dionisije's and my own, which represent people who voted for the sending of this telegram. There was no dissent. After this meeting I
2648 returned to my parish in Pittsburgh and about two weeks later received a letter from the Holy Synod of the Serbian Orthodox Church.

2649 I recognize PX 3-C, which is a document addressed to me which I received in May. It bears the date May
2650 10, 1963, and arrived by mail from the Holy Synod of Bishops. It is signed by Bishop Emilijan of Timok, and he signed the document as a member of the Holy
2651 Synod. To the left of his signature appears an ink impression which is the seal of the Holy Synod, and this document is in the same condition as when I received it. PX 3-B is an English translation of 3-C. I first saw document 3-B several days after the date of the document, which is—June 26, 1963. I received this translation through the mail from the secretary
2653 of the Holy Synod of the Serbian Orthodox Church.

PX 3-A is addressed to me and the signature is that of the Bishop of Timok. I received this document
2654 in May, shortly after the date it bears, May 10, 1963.
2655 PX 3 is an accurate English translation of Document
2667 3-A. Following my receipt of plaintiff's Exhibits now in evidence, 3-B and 3-C, I received further com-

munications from the Holy Synod. I received a document in which I was informed about the reorganization of the American-Canadian Diocese into three
2668 dioceses. I have examined PX 5 for identification and state that it is in the Serbian language and this is the document which I received which I have just testified about. On the back of this document is a statement above the signature, "President of the Holy Synod of Bishops, the Serbian Patriarch German." To the left of this and the signature there is an inked imprinted seal which belongs to the Holy
2669 Synod of Bishops. The signature appearing on the back is that of Patriarch German. Below this there appears a certification in English by the Consul of the United States of America in Belgrade. PX 5-A which is in English is a translation of the original. I
2670 received Exhibit 5-A at the end of June in 1963 through the mails. It was dispatched to me by the secretary of the Holy Synod.

2672 *Cross Examination.*

2673 The English translation, Exhibit 5A, does not correctly translate the addressee on Exhibit 5. It should read "The Venerable Archimandrite Dr. Firmilian Ocokoljich, Administrator of Midwestern American Diocese."

Direct Examination resumed.

2682 (The Court admits Exhibit 5 and 5A as amended) I received Exhibit 7A. It is addressed to "Very
2684 Reverend Stefan Lastavica, Administrator of the
2689 Mideastern American-Canadian Diocese, Windsor."
2690 I saw PX 7A in June when I had a meeting in Penn-
2707 sylvania. The letter I received is identical to PX 7A

except for the addressee. We went to Shadeland about ten o'clock and the administrator told us that he was ordered not to allow us to enter any building.
2711 We stayed under a tree and discussed our problems.

Cross Examination.

The material between the quotation marks was substantially the same in each of the letters. One letter was addressed to Lastavica as Administrator of
2712 the Mideast, another addressed to me as Administrator of the Midwest, and the third addressed to Gregory as Administrator of the Western. Another letter containing the same quoted material was addressed to His Grace Bishop of Middlewestern Amer-
2713 ican Diocese Lord Dionisije. Exhibit 7 is not a translation of 7A. I had an original document which I
2714 gave to my lawyers. The addressee on the Serbian
2724 document 7A is "Very Reverend Protopresbyter Mr. Stevan Lastavika, Administrator of the Middle Eastern American-Canadian Diocese, Windsor."

2725 (PX 7, 7A, 7B, 7C, 7D, 84A and 119A are admitted in evidence.)

2726 *Direct Examination resumed.*

2728 After the receipt of the documents marked PX 7 through 7D and the clergy Resolution now admitted as Exhibit 86, I received further communication from Bishop Dionisije at the beginning of June, 1963. I have examined Exhibits 120 and 120A, and 120A is a communication to which I have just had reference.
2729 Exhibit 120A is signed by Bishop Dionisije whose handwriting I recognize. At that time I was Parish Priest of St. Sava in Pittsburgh and this letter came
2730 by mail. PX 120 in English is a translation of 120A.
2731 Following my receipt of 120A I had occasion to dis-

cuss the subject matter of that letter with Bishop Dionisije. I discussed this when he came to Pittsburgh sometime in June of 1963. That was after June 6, in 1963. After receipt of PX 120A, I had occasion to discuss its subject matter with Nicholas Stepanovich. The subject matter of PX 120A or any of the items to which references made in that Exhibit were discussed at a general meeting called a Plenum which
2732 I attended on June 6, 1963 at St. Sava Monastery.
2733 Mr. Stepanovich told me that a meeting had been held with Bishop Dionisije, Father Milan Burkich, Father Velimir Kovacevich, Father Jovan Marcetich, at the Monastery, and at that meeting Mr. Stepanovich had asked Bishop Dionisije to obey the orders from the Holy Synod of Bishops and Holy Assembly, and Bishop Dionisije had promised, "don't worry, everything will be all right."

2734 On June 2, Sunday, I was preparing myself to go to church to serve the Holy Liturgy at about eight o'clock in the morning when he again called me on the telephone and informed me "we called Diocesan Plenum". I said who called, and he said we, I again asked who, and he said that the invitation for the Plenum was to be on the 6th of June, and that the invitation was signed by Archimandrite Dimitrije Balach, Dr. Seferovich, Jovan Marcetich, and himself, that is, Mr. Stepanovich. I protested immediately, saying that they did not have the right to summon the meeting. He said Bishop Dionisije had authorized this and I replied telling him he knew Bishop Dionisije was suspended not only from performing offcial ceremonies in the church, but from all administration of church affairs, and that I was the only person who could call a Diocesan meeting. He asked me please

2735 not to object as they would like to peacefully remove Bishop Dionisije from Libertyville. I told them I was going to attend the meeting, but that I did not want to see Bishop Dionisije there. He replied that Bishop Dionisije will not attend the meeting, and with that understanding I agreed to come to Libertyville. The next day was Monday, and a meeting was held at Shadeland with about 15 clergymen. We were
2736 not permitted to enter the building there at that time. The clergymen with whom I discussed this matter
2739 advised me to go to Libertyville and try to take administration of the American-Diocese.

2740 On Wednesday, June 5, before going to Libertyville, I had occasion to stop and talk with Mr. Stepanovich in his office in a Bank in East Chicago, Indiana. I told him that if a meeting was going to be held I would have to preside, as I was administrator of the Diocese. He told me that he thought Dr. Sef-
2743 erovich should preside. I suggested to Mr. Stepano-
2744 vich that I call a Sabor of the American-Canadian Diocese to present the issue of the creation of three new dioceses. If the Sabor by a majority decided they did not want three dioceses, I told him that in that case I would ask the Holy Synod or Holy Assembly of Bishops to reconsider their decision of May 10, 1963, when they reorganized the American-Canadian Dio-
2745 cese. He did not agree with my suggestion. Nothing
2746 was said at that meeting concerning the subject matter of Bishop Dionisije's surrendering the administration of the Diocese to me. When the conversation ended, the two clerics who accompanied me and I, left Mr. Stepanovich's office and went to Chicago, and called on Dr. Sefer, who was at that time vice-president of the Diocese and the one who had signed this

summons for the meeting of June 6. I telephoned him
2747 and he invited me and Father Marcetich to his home in Berwyn. We went to his home that evening and arrived at ten o'clock in the evening. We discussed this matter and Dr. Seferovich said, "I am going tomorrow to Libertyville and I will, with my own hands, take care of Bishop Dionisije. I will throw him out."
2748 He told us that the church would stay one and undivided as was promised on April 17, 1963. Then Dr. Seferovich told us about the meeting that was had in Libertyville on May 27 or 28. He said that Mr. Step-
2749 anovich protested very vigorously against some of the writings of Bishop Dionisije and asked him in plain language to resign, and Dr. Sefer told me that Father Burkich went even further to offer Bishop Dionisije a pension in the amount of the salary he was receiving as Diocesan Bishop. He told us that they agreed and Bishop Dionisije promised to be silent. He quoted Bishop Dionisije as saying "I am going to be silent like a fish. I am not going to write anything anymore about the church. I am not going to sign any documents anymore." No writings of Bishop Dioni-
2750 sije were referred to or discussed at the meeting in the doctor's home in Berwyn. After the bishop re-
2751 ceived the message from Belgrade that he was suspended he issued some pamphlets and directed the clergy to notify the Church School Congregations that he was not going to obey the decision of the Holy Assembly of Bishops. PX 74 is one of the writings to which I have referred. I first saw this document three or four days after May 25, 1963, and I received it in
2752 the mail from the Office of the Diocese in Libertyville. Bishop Dionisije's signature appears on page 3.

• • •

2784 BISHOP FIRMILIAN testified as follows:

Direct Examination continued.

PX 76 is one of the documents to which I made reference that Bishop Dionisije published. I have
2786 examined these exhibits and can state that the first paragraph of exhibit identified as PX 84B, is the same or substantially the same as the first paragraph of that identified as PX 76. The second paragraph of 76 when compared to the paragraph on Page 60 of Exhibit 84B are substantially the same. The two
2787 paragraphs, each numbered 1 in these two exhibits, are substantially identical. There are a number of
2793 other paragraphs in these exhibits, which are substantially identical. The date on PX 76 is June 3,
2794 1963, and PX 84B is May 27, 1963.

2802 *Direct Examination resumed.*

2807 After my meeting with Dr. Seferovich we retired for the evening and in the morning at nine o'clock, Dr. Seferovich, Father Dimitrijevich, and Father Marcetich drove together to Libertyville and I followed them in another car. I had trouble with my
2808 car and when I arrived at Libertyville, the Plenum meeting had already opened. The word Plenum is mentioned only once in the Constitution of the Serbian Eastern American-Canadian Diocese and according to the Constitution the Diocesan Council of 12 members is divided into two sections, finance-executive and religious-education. If there is a dis-
2809 agreement by a committee under the educational, executive, or religious group, an appeal may be taken on a decision of the Diocesan Council which decides in full session, meaning that both of these sections come together and decide at Plenum. The meeting on

June 6, however, was not a meeting of the Plenum as I have described it. In addition to the members of the Diocesan Council which were elected by the Sabor, different committees as the Committee for Shadeland, the Committee for Jackson, and the Committee for the Monastery, and members of the Ecclesiastical Court, were invited. These groups were not part of the Plenum as provided for in the Con-
2810 stitution. They did participate in the meeting, how-
2811 ever, and were permitted to vote. When I arrived and entered the building I was very much surprised to see Bishop Dionisije at the head of the table. I stopped at this point and remembered that Mr. Nicholas Stepanovich invited me to attend this meeting and promised that Bishop Dionisije was not going to be present. I then went to the kitchen which is located in front of that hall. I asked for a cup of coffee from the ladies and several minutes later Mr. Nicholas Cuvraja, who was a gentleman identified here as a
2812 treasurer, came to the kitchen and greeted me in a very friendly manner and asked me why I didn't attend the meeting and help them solve the question peacefully. I then entered the meeting hall. I greeted all of those who were present, first Bishop Dionisije, then Father Archmandrite Dimitrije Balach, and then Dr. Seferovich. I greeted the others and the session continued. I was trying to speak but was
2813 not allowed to. Mr. Nicholas Stepanovich was not far from me and was trying to pull my sleeve down and said, "Be calm, be calm, everything will be all right." Father Alexander Dimitrijevich spoke almost 45 minutes stating that we should invite Bishops from the Old Country to investigate the charges against Bishop Dionisije and if Bishop Dionisije was

guilty, Dimitrijevich said, "I am going to be the first one against him." The Plenum did decide to invite the Commission to America and a telegram was sent to the Holy Synod of Bishops in that regard.

2814 PX 15A is the telegram in Serbian which was dispatched by Dr. Uros Seferovich about which I have just testified. Another issue discussed at that meet-
2816 ing was the Sabor called for October be moved to an earlier date. The 6, 7 and 8 of August in Libertyville were proposed by Protopresbyter, Mr. Polich, and that was seconded. I did not make a special objection.
2817 After lunch I returned to the meeting and the Secretary of the Diocese who was at that time Archmandrite Dimitrije Balach, read decisions received from the Holy Synod, #1664, concerning the reorganization of the Diocese. This was the topic of discussion.
2826 When Father Balach read Decision #1664, he also read what appears as the body between the quotes of PX 3A. He also read what appears between the quotation marks in PX #5. He also read what appears in quotes of PX 7A, Order #1726. After
2827 reading these three Orders, I again read the decision of the Holy Bishops' Synod. This was Decision #1664, Minute #188, and I told the meeting that I was appointed Administrator of the Diocese and I was asking Bishop Dionisije to turn over administration of the Diocese to me. I was referring to the Ameri-
2829 can-Canadian Diocese. I told them that I did not ask for this responsibility, but the Holy Synod had ordered me and I was following my orders. I begged Bishop Dionisije to obey the order and went further to state that I would return the whole Diocese if the Commission that we asked will say that the Bishop was not guilty of the charges. I emphasized the

words, "Give the Diocese to your Episcopal Deputy." I was the Episcopal Deputy of the American-Canadian Diocese. Bishop Dionisije then said in a
2830 loud voice, "I am not going to obey the orders of the Holy Synod." I then told Bishop Dionisije that as long as he recognized the authority of the Holy Synod of Bishops and the authority of the Holy Assembly of Bishops, he was my Bishop, but now when he refuses to recognize the authority of the highest church authorities, he was no longer my Bishop. At this time I left the meeting and went out. Three or four clergymen went with me and Mr. Topo Polich came out of the building, and I was still in the vicinity where the meeting was being held and he asked me why I did not return. I told him that this was the
2832 beginning of disunity between the American and Canadian Diocese and the Mother Church and that I could not return. Then I went with Father Miatovich.
2840 PX 121 is a copy of a letter I wrote from Milwaukee to Dr. Uros Seferovich when I read the invitation to the Sabor which was to be held on August 6th, 7th and 8th in Libertyville. This letter was prepared
2842 after the meeting of June 6th and perhaps 10 to 15 days before the meeting in August. At a meeting in
2843 the Sherman Hotel on July 4th Mr. Stepanovich took this letter out of his pocket, PX 121, and asked me if I wrote it. When I told him I did he asked if it was an ultimatum and I replied no. PX 7E is a document
2849 I discovered among my books and records and is a photostatic copy of Order No. 1726 that I received from the Patriarchate. This thermofax copy was
2851 produced in my presence and I have searched for the original but have been unable to find it. This docu-
2853 ment recites that Bishop Dionisije is suspended and

the diocese is divided into three parts and administrators are appointed on a temporary basis for each of the three new dioceses.
2856 PX 123 purports to be a letter on the letterhead of the Serbian Eastern Orthodox Diocese for the United States of America and Canada and is dated June 29, 1963, and is signed by Bishop Dionisije. This document is addressed to the Very Reverend Simeon Grozdanovich, Monastery of the Holy Mother of God, Shadeland, Springboro, Pennsylvania. This is
2857 a cleric who was at that time working at the Diocesan property in Shadeland. I first saw this document several months after the date which appears on it and it was given to me by Father Grozdanovich in Cleveland, Ohio, where he served in a church loyal to the late Bishop Stefan Lastavich.

Offer of proof. The letter apologizes for the Bish-
2861 op's inability to come to Shadeland for the Slava there. It announces further the arrival of a new commission from Belgrade and states that they are not guests of the Diocese and should not be received. It goes on to forbid that Stefan Lastavica be permitted to use the chapel at Shadeland. This is the
2862 commission that was discussed at the June 6th, 1963,
2863 meeting. The members of the commission were Bishop Hrisostom, Bishop Visarion and Proto Mladen Mladenovich and Proto Deacon Bozo Petrovich. End of the offer of proof.
2866 I am acquainted with Father Klipa who is pastor
2867 of the Serbian Church in Clairton, Pennsylvania, and is Vicar General of the Eastern Region of the American-Canadian Diocese. PX 124 is a letter on the letterhead of the Serbian Eastern Orthodox Diocese for the United States of America and Canada dated June

14th, 1963, signed by Bishop Dionisije and addressed to the Reverend Klipa. In one of the lower corners
2869 of this document is written in longhand, "Proto Milan Brkich is also relieved of the duty of Vicar General".
2871 The text of this letter recites that the priest was appointed as Episcopal Vicar for the Eastern States of America and performed well but that cooperation with the reorganization of the Diocese, and with the future Bishop Stefan Lastavica, and the summoning of an assembly of clergy in Clairton, Pennsylvania,
2872 without permission. It resulted in impressing the diocese with the fact that he had renounced cooperation with the Bishops and was in conflict with the constitution and therefore is relieved of further duties as Vicar General. I recognized what has been
2874 marked as Exhibit 125 under the American-Canadian
2875 Diocese letter head dated June 14, 1963, and signed by Bishop Dionisije. This is a copy of the original letter which was mailed to me and which I received a day or two after this date. At the time I received
2876 this I was still a priest in Pittsburgh. This letter is addressed to the executive board of the clergy association of the Serbian Eastern American-Canadian Diocese in care of Proto Presbytere Tomich, President, Aliquippa, Pennsylvania. This letter states that
2877 though the clergy association was warned to adhere to the by-laws of the diocese they did not do
2878 so and therefore the Bishop revokes recognition of the clergy association and calls upon all of the clergy not to participate in the work of the association which is supporting the idea of division of this diocese. The letter cites the fact that the association supports the Holy Assembly of Bishops' illegal act of dividing the diocese into three parts and the illegal suspension

2879 of the Bishop. The Holy Bishops' Synod and Assembly referred to in that letter is the highest authority in the Serbian Orthodox Church. The referent's letter to the constitution of our church in general refers to the constitution of the Mother Church with its see and Patriarchate in Belgrade, Yugoslavia.

2881 I have examined PX 106A which are the minutes of the Diocesan Plenum of the Serbian Orthodox Diocese for America and Canada held in St. Sava Monastery in Libertyville, June 6th, 1963. This document
2882 lists people attending that meeting, some of whom were members of the diocesan council and some of
2889 whom were not. There is nothing in the diocesan constitution which provides that diocesan council mem-
2891 bers may vote by proxy. None of the proceedings reported on the first page of PX 106A occurred while I was present as I arrived after the meeting had opened.

2895 The commission which the meeting of June 6, 1963, requested be sent to America did arrive. I refer to
2896 it in Exhibit 15A. I met the commission when it arrived in America and accompanied it to Pittsburgh where we were met by Stefan Lastavica and Archimandrite Gregory Udicki and some of the clergy from the Pittsburgh area. Thereafter we went to Shadeland. Bishop Chrisostom officiated at a short service in which Stefan Lastavica became a Proto-Singlos which is a monastic order. At this time Father Grazdaovich did not invite us to the residence nor offer us anything. We then went to Lackawanna,
2898 New York and the commission wrote to Bishop Dioni-

sije informing him of their arrival and making an appointment to meet with him in the Monastery of St. Sava in Libertyville. Thereafter, we left for Chicago and it was shortly before the 4th of July. I had occasion to attend the meeting in the Sherman House on July 4th.

2903 Bishop Chrysostom opened the meeting and stated with some of the members of the diocesan council and the legal advisor. Those present were Bishop Chrysostom, Bishop Visarion, Mr. Milan Radakovich,
2900 Father Milan Brkich, Mr. Maravich, Mr. Nicholas Stepanovich and Dr. Uros Seferovich. Mr. Stepanovich took a letter from his pocket and stated that the Patriarch had taken over administering the diocese. I told him I believed he was wrong and actually the letter stated that the Patriarch had taken over some Episcopal prerogatives and dispensations. Only
2901 bishops may give dispensations, and as Bishop Dionisije was suspended, there were no bishops in this country to give dispensations and the Patriarch had taken over this duty.

2903 Bishop Chrisostom opened the meeting and stated that the Holy Synod of Bishops had received the telegrams of the Plenum and that *this* delegation was willing to do anything to peacefully solve the questions. The Bishop asked why this group opposed the decisions of the Holy Synod and Dr. Seferovich said loudly, "We want to rule the diocese." He then
2904 listed several priests whom he said they had removed and pointed his finger at Father Brkich and told him that he was next. Nicholas Stepanovich asked if the August 18th Sabor would be legal and Bishop
2905 Chrysostom stated yes if it is presided over by Firmilian.

2906 PX 126A is the original of a letter I received from the Holy Bishop's Synod number 1987-minutes 267, June 13th, 1963, Belgrade. It is signed by Emiljan, Bishop of Timok and it bears the seal of the Holy
2907 Bishop's Synod. This is the letter which Mr. Stepanovich referred to concerning the Patriarch's assumption of dispensations.

2910 When I arrived at Libertyville on both June 6th and July 4th, Mr. Nicholas Stepanovich was operating some instruments and I saw a microphone, but I do not recall whether there was a tape recorder there or not. At neither meeting was my permission requested to tape the proceedings.

2911 Following the meeting on the 4th of July the com-
2912 mission went to Libertyville and after finishing there went to Milwaukee where the two bishops wrote a communique to inform the clergy of the Serbian
2913 Orthodox Church and the people in America what had happened the previous day in Libertyville. PX 17 is that communique that was composed by the
2914 commission at St. Sava Church in the parish house in Milwaukee. The communique was mailed from Milwaukee to all clergy, church school congregations and all Serbs in America and Canada.

2916 After travelling about, the commission arrived in Pittsburgh and on July 13th Stefan Lastavica was consecrated bishop at St. Elijah Serbian Orthodox Church by Bishop Chrysostom and Bishop Visarion.

2923 I was consecrated as a bishop on August 1st, 1963, and PX 89A is the Grammata which I received, issued by the Holy Synod of the Serbian Orthodox
2926 Church confirming my consecration. Prior to my consecration I received a communication from the

Holy Synod with respect to Bishop Dionisije. PX 9
2927 is that communication and it contains the hand writ-
2928 ing and signature of Patriarch German. This document also bears the seal of the Holy Bishop's Synod of the Serbian Orthodox Church. PX 10A is in the Serbian language and is addressed to me and I received it approximately 2 days after the date it bears, July 31, 1963. The signature is that of Patriarch German and the ink seal to the left of the signa-
2929 ture is that of the Holy Bishop's Synod. I received this in my capacity as a newly elected Bishop of
2934 the Midwest American Diocese. PX 22A dated March 16, 1964, is a communication from the Patriarch with respect to the judgment of the Holy Assembly of Bishops concerning Bishop Dionisije which I received. I received it as Bishop of the Midwest American Diocese and the signature appearing on that document is in the hand and is in fact the signature
2935 of Patriarch German. This document bears the seal
2939 of the Patriarch. PX 22C is a communication which I received at about the same time from the Holy Synod concerning the entry of judgment against Bishop Dionisije.

2948 *Cross Examination.*

2949 PX 30, the diocesan constitution was published in 1939. There have been amendments and they do not
2950 appear in this translation. (PX 30, 31, 31A, 32, 32A,
2952 33, 33A, 34, 34A, 35, 35A, 36 and 36A are received in evidence). (DX 38 and 38A are received in evidence).
2954 (DX 37, 37A, 39, 39A, 39B and 39C are received in
2959 evidence). (PX 40, 40A, 40B, 40C are received in evidence).

2988 *Direct Examination resumed.*

I have examined PX 55C and have seen this after
2989 July 27, 1963, when it came to me as a Bishop of the Serbian Orthodox Church from the Holy Bishop's
2990 Synod in Belgrade by mail. Copies were sent to members of congregations throughout the United States and Canada. These copies were mailed by myself, Bishop Stefan and Bishop Gregory.

I recall the meeting in Libertyville on the 23rd of
2991 November, 1962. I recall there was Metropolitan Damaskin who was speaking about the requests made by Bishop Dionisije that the diocese should be changed. Metropolitan Damaskin was speaking to
2992 the assembly in Libertyville attended by Bishop Dionisije and myself and the discussion centered on the proposal made by Bishop Dionisije that the diocesan name be changed to *Metropolia* and that the
2993 borderline of the diocese extended to include the territory of South America. Metropolitan Damaskin advised Bishop Dionisije to write a letter to the Holy Assembly of Bishops with this proposal as the assembly was the only body that could decide on the question. He further explained that only the Patriarch was permitted by the constitution of the Mother Church to have Vicar or assistant bishops. Metro-
2994 politan Damaskin requested that the matter of church problems not be discussed through American newspapers, but that if anything was to be written, it should be sent to the Holy Synod of Bishops or to the Holy Assembly. He said he would do everything in his power to help the church in America and Canada. The Metropolitan also stated that only the Holy Assembly can elect a diocesan or assistant bishop.
2995 Bishop Dionisije agreed to write the Holy Assem-

bly concerning the question of South America. He further stated that he realized they reminded him not to write because of his articles in the Serbian newspapers and he promised he would not do that.

2998 I received PX 59A a few days after its date of September 3, 1963, from the Holy Bishop's Synod through the normal mails. It is addressed to me as "Your Grace Fermillion, Bishop of the Midwest Serbian Orthodox Diocese."

• • •

3066 BISHOP FIRMILIAN OCOKOLJICH:

Direct Examination resumed.

I recognize PX 78A which I received shortly after June 28, 1963, from the Diocesan Office in an official diocesan from Libertyville. I was still in Pittsburgh,
3069 Pennsylvania, at that time. I recognize PX 79A which I first saw a few days after June 28, 1963, receiving
3070 it from the American-Canadian Diocese in Libertyville.

3073 *Cross Examination.*

3074 I did not receive PX 79A. I received a copy of this document. I did not receive 78A in the mail. I received a mimeographed copy of this
3075 letter. I destroyed the envelopes that these docu-
3076 ments came in. (The Court admits Exhibits 18, 78A, 79, and 79A, partially sustaining the objection and for the limited purpose to show that this witness did receive these items and as circumstantial evidence that others may have received them).

Direct Examination.

3086 I recognize PX 90A which I first saw shortly after September 20th, 1963, and which I did not receive personally but saw in the office of Father Brkich in Mil-

waukee who received and opened it in my presence.

3087-3153 Discussions by counsel.

3155 PX 127 is a copy of the 1927 constitution of the diocese and it is in the Serbian language. I received
3156 this from Father Velimar Kovacevich who is a parish priest in the church in South Chicago and who gave it to me about two or three months ago and after I returned it to him he gave it to me again
3158 two weeks ago. I have examined the second page of PX 30 in evidence where it states, "Constitution Serbian Orthodox Diocese of the United States of North America and Canada accepted at the Diocesan Church National Assembly in 1927." The reference
3160 made in exhibit 30 to the church national assembly in 1927 is where the constitution of the American Canadian Diocese plaintiff's exhibit 127 was accepted. It is my opinion that the Bishop for every diocese in the Serbian Orthodox Church including the American Canadian Diocese is elected and appointed by the Holy Assembly of Bishops of the
3161 Serbian Orthodox Church. It is my opinion that the Holy Assembly is the only body with the power to elect and appoint Bishops and I base this on article 9 of the constitution of the Serbian Eastern Orthodox Diocese of the United States of America and
3162 Canada which states, "Article 9: Bishop of the Serbian Eastern Orthodox Diocese in the United States of America and Canada is appointed by the Holy Assembly of Bishops of the Serbian Patriarchate."

3164 On page 58 of PX 127 is the recitation of the ap-
3165 proval of the constitution by the Holy Assembly of
3166 Bishops. The document contains the seal of the Holy
3167 Bishops' Synod. I recognize PX 128A and the signature appearing thereon as that of Emilijan, Bishop

of Timok and the seal that appears to the left of that name is that of the Holy Bishop's Synod of the Ser-
3172 bian Orthodox Church. The signature which appears on PX 172 at the foot of the second page is mine. I executed that signature and this is a deed from the Serbian Eastern Orthodox Diocesan Council for the United States and Canada, a Corporation duly organized and existing by virtue of the Laws of the State of Illinois. Beneath my signature is the word secretary. I was in fact secretary of the grantor
3173 Corporation. By virtue of being secretary of the diocese I was secretary of the corporation but I was never elected as secretary of the corporation. I had a conversation with Bishop Dionisije on or about the date that I signed this document in St. Sava Monastery in Libertyville. Bishop Dionisije and I were present and probably the legal advisor at that
3174 time, Dushan Silaski. The legal advisor stated at that time that he had been asked to prepare this document by Bishop Dionisije and that I should sign as secretary of the diocese.

3175-3195 Discussions by Counsel.

3196 The Bishops of the Serbian Orthodox Church are consecrated by the Patriarch and two bishops. Under the constitution and canons of the Serbian Orthodox Church no one other than the Patriarch of the Serbian Orthodox Church, with the assistance of Bishops is authorized to consecrate a Bishop. A Bishop
3197 of the church is assigned to a diocese by the Holy Assembly and no one else is authorized or able to assign a Bishop. Only the Holy Assembly of Bishops under the constitution and canons of the Serbian Orthodox Church is authorized or empowered to create a diocese in the Serbian Orthodox Church. This

power is exclusive to the Holy Assembly. In my
3199 opinion the Holy Assembly of Bishops of the Serbian Orthodox Church according to the constitution of that church is the only body that can change the name of a diocese, the boundary lines of a diocese, or add more territory to a diocese and this includes
3200 reorganization. This also includes reducing the geographical boundaries of a diocese and creating other dioceses in connection therewith. It is my opinion
3202 that, according to the constitution of the Serbian Orthodox Church and the constitution of the American Diocese, the people or congregations have no voice in who is elected Bishop by the Holy Assembly of the Serbian Orthodox Church. The Patriarch of
3204 the Holy Synod may authorize another Bishop or Bishops to act in his name in the consecration of a Bishop and I myself was consecrated under these circumstances as were Bishops Gregory and Lastavica. During his lifetime Stefan Lastavica did not attend meetings of the Holy Assembly of Bishops, but Bish-
3205 op Gregory has attended these meetings. Bishop Lastavica died in 1966. I had a conversation following the meeting of June 6th, 1963, with Mr. Nicholas Stepanovich on October 2nd, 1963, in the Bismarck Hotel in Chicago. I was called by Father Velimir
3206 Kovacevich who was parish priest in South Chicago and after this conversation a meeting was held at which Father Kovacevich, Mr. Stepanovich, Dr. Uros
3207 Seferovich and myself met at the Athletic Club on
3210 Michigan Avenue. We held the meetings in the large
3211 dining room and had lunch. There were just the four of us present. At this meeting we discussed the situation of the Serbian Church in the United States of America and Canada. Mr. Stepanovich said that he

did not agree with the organization of the American Canadian Diocese and I told him that like a family the church is living and its development cannot stop.
3212 Dr. Seferovich left immediately after lunch and after the three of us discussed the problem further we
3213 separated. This conversation took place about the 20th of September, 1963. I have a further conversation with Bishop Dionisije in Pittsburgh at which Bishop Dionisije, myself and the priest of St. George Serbian Church in Pittsburgh, Father Milan Savich
3214 were present. This meeting had been prearranged by a telephone call from Bishop Dionisije. This
3215 meeting occurred several days after June the 6th, 1963. Bishop Dionisije told me he wanted to make peace with me after the meeting on June 6th of the Plenum and I told him I would be glad to and would do my best. I asked him what did he want from me and he told me not to accept the administration of the diocese. I repeated what I said at the meeting that asked and appointed by the Holy Bishop's Synod that I was going to accept the assignment. I told
3216 him that assignment was to be administrator of the Canadian American Diocese. I then said to him, "Bishop Dionisije, you are informed that certain charges exist against you. Why don't you accept this, stand up and defend yourself. I shall be more than glad to help you whenever I can." He then asked if I wanted to accept the administration and I told him yes and then he got up and left the house. Following my meeting with Mr. Stepanovich in the Athletic Club in September of '63, I had occasion
3217 to meet with him again. This took place on October 2nd, 1963, in the Bismarck Hotel Restaurant. Again this meeting was arranged by Father Velimir Kova-

3219 cevich. Our appointment was for 7 o'clock at the Bismarck Hotel and I arrived early so as not to miss him. He arrived with his wife shortly after 7 and she departed immediately. We then went into dinner and he said let's talk about the church. I asked him
3220 as a friend of 23 years why he was on the other side in this matter and he replied that the Holy Assembly of Bishops had divided the American Canadian Diocese into thirds and by doing that they abolished the constitution of the American Canadian Diocese. I told him that laws can be abolished by other laws and that the reorganization of the American Canadi-
3221 an Diocese by the Holy Assembly of Bishops instructed the church people's assembly, that is the Sabor, to decide where the boundary lines between the newly created dioceses be situated. He then said to me that they want to rule property here in America in the same manner as they do in Yugoslavia. I replied to him that the Serbian Orthodox Church in Yugoslavia to my knowledge never interfered in the administration of property in this diocese and that after the war under very difficult conditions when many churches were destroyed, priests and bishops killed, they had never asked for donations or help from us to rebuild the churches, seminaries or
3222 schools. I told him I guaranteed that there would never be interference in the management of our property. He then said to me, "Bishop Firmilian, I would come on your side if the Holy Bishop's Synod issues a decision first that the constitution of the American Canadian Diocese is still in force except for this reorganization in the dioceses and if the Holy Synod of Bishops issues a statement or decision that they are not going to interfere in the

management of our property here in America and when I receive that decision from the Holy Synod of Bishops I will come on your side." I told him that I would inform the Patriarch of his requests, but that in order to be sure I transmitted every word I asked him to write this statement on a piece
3223 of paper. As I did not have any paper I gave him a menu from the restaurant and on the blank side in his own hand writing he put down word by word his request. I then asked him about the litigation in Waukegan and he said, "Don't pay any attention to that." I took the menu and copied the statement he had made in a letter addressed to the Patriarch as President of the Holy Bishop's Synod and I told them about the meeting and request made by Mr. Nicholas Stepanovich.

VERBATIM TESTIMONY

[3218] BY MR. JENNER:

Q. Prior to your telephoning Mr. Stepanovich as you have now testified, did you have a conversation with Father Kovacevich?

A. Yes, I have.

Q. Now, following that conversation, did Father Kovacevich—with Father Kovacevich, did you then call Mr. Stepanovich?

A. Yes, I did.

Q. Did you reach him on the phone?

A. Yes, I did.

Q. What did you say to him and what did he say to you?

A. I told him about call from Father Velimir Kovacevich and then—

Q. What did you say with respect to that telephone call?

A. I said, "I received—" "Father Velimir Kovacevich informed me that you want to see me again
[3219] and I'm willing to see you at any time anywhere you want."

Q. What was his response, if any, to that?

A. And he told me to wait for him at seven o'clock on October 2 in Bismarck Hotel.

Q. The restaurant in the Bismarck Hotel?

A. Yes, restaurant in the Bismarck Hotel. And I agreed.

Q. All right. Now, did you go to the Bismarck Hotel on October 2?

A. Yes, I did.

Q. At or about seven o'clock?

A. I was there before seven o'clock and I was afraid the hotel is too big to—maybe I am not going to see him. I was waiting outside on street, on street in front of Bismarck Hotel.

Q. And did he come along?

A. Yes, he came with Mrs. Stepanovich about seven o'clock, maybe 7:05. He was prompt. And Mrs. Stepanovich went somewhere. We greeted each other and she went away and then Mr. Nicholas Stepanovich and myself went into the restaurant and —

Q. You sat down and had dinner?

A. Yes. We had dinner. Then I asked Mr. Nicholas
[3220] Stepanovich about the purpose of his—this meeting. I said, "You called, I accepted your call, here I am. Let us talk about the—" He said, "Let's talk about the church." I said, "Yes, let's talk."

Q. All right.

A. And then I asked him, "Mr. Nicholas Stepanovich, why—tell me as a friend—" we were friends for 23 years—"tell me why you are on the other side. What is the reason?" And then—

Q. Did he respond to that?

A. Yes, he did.

Q. What did he say?

A. He said to me, "You know," he said, "that the Holy Assembly of Bishops divided the American-Canadian Diocese into three dioceses and by doing that they abolished the Constitution of the American-Canadian Diocese."

I replied to that that he—I said, "Mr. Nicholas Stepanovich, I am surprised. You are a lawyer and you know that law can be abolished by another law," and I told him about the decision of the Holy Assembly of Bishops, that 1725, and about the reorganization of the American-Canadian Diocese, that the
[3221] Holy Assembly of Bishops by that decision instructed the church Peoples' Assembly to—that the Constitution remain the same, that the boundary line between the newly created diocese will be decided by the Peoples' Assembly.

Q. That's the sabor?

A. Sabor. Yes. Of the Serbian—of the American-Canadian Diocese. And that Constitution will be worked accordingly to this decision and all this proposals by the sabor should be sent to Belgrade for approval.

And when I finished that, Mr. Nicholas Stepanovich said to me, "But they want to rule our property here in America in the same manner as they do in Yugoslavia." And to that remark I replied: "Mr. Nicholas Stepanovich, the Serbian Orthodox Church

in Yugoslavia, to my knowledge, never interfered in the administration of the property of this—of the diocese in the United States of America and Canada. They were, after the war, in very difficult condition. Many churches were destroyed, many bishops killed, priests killed, but they never asked even donation from us to help them to rebuild the church and sem-
[3222] inaries and schools," and I was trying to convince him—

Q. Say what was said.

A. I said, "I can guarantee you, Mr. Nicholas Stepanovich, there was—they would never interfere in the management of our property here in America and Canada."

Then Mr. Nicholas Stepanovich said to me, "Bishop Firmilian, I would come on your side—" I said, "Don't come on my side, come on the side of the church,"—"if the Holy Bishops' Synod issues a decision first that the Constitution of the American-Canadian Diocese is still in force except this reorganization in the diocese, and if the Holy Synod of Bishops issues a statement or decision that they are not going to interfere in the management of our property here in America, and when I receive that decision from the Holy Synod of Bishops, I will come on your side."

I agreed to—

Q. No, what did you do? What did you say?

A. I said, "Mr. Nicholas Stepanovich, I will inform his Holiness, the Patriarch, and the Holy Synod about your requests, but in order to be sure that I transmit every word you say, will you be kind
[3223] enough to write this on the paper" and I didn't have any paper on the table, I took menu—

Q. Menu?

A. Menu from the restaurant and on the empty side I turned and he in his own handwriting put word by word his request.

Then I asked him, "Nick, how about this litigation in Waukegan, you know, that we are in court?" He said, "Don't pay any attention to that."

Then I went home, copied—

Q. Did you take the menu with you?

A. Yes.

Q. On which Mr. Stepanovich had written his request in his own hand?

A. Yes.

Q. All right.

A. I took that, I made a copy of his written statement and I wrote on October 3 a letter to—addressed to the Patriarch as the President of the Holy Bishops Synod and I told them about the meeting and the request made by Mr. Nicholas Stepanovich in the hotel, and—

ABSTRACTED TESTIMONY RESUMED

In October I received a reply which is PX 128. I
3224 believe the original menu was used by Father Dusan
3225 Saukletovich in the court case in Indiana Harbor. I have not seen the menu from that date to this. Of my own knowledge I do not know if the menu was
3226 used in that court case. Of my own knowledge I do not know where the menu is.

3230 PX 141 is the carbon copy of a letter dated October 3rd, 1963, addressed to his Holiness the Arch Bishop of Ipeck, Metropolitan Belgrade-Karlovacu, Patriarch German, Belgrade, Yugoslavia. The signature appearing on the bottom of this letter is mine and this is a carbon copy of an original letter which I dispatched, as I testified, to the Patriarch. PX 128
3237 refreshes my recollection as to all the words and

numbers on Mr. Stepanovich's hand written notes on the reverse of the menu during the course of the dinner at the Bismarck Hotel on October 2nd. Para-
3238 graph numbers one and two reflect his memorandum on the menu. After my receipt of the Holy Synod's letter, PX 128, I made a photostatic copy and mailed one to Mr. Nicholas Stepanovich after which I called him and informed him of the contents of the letter. This was about a week after October 18th. I read
3239 him the letter which I received from the Holy Bishop's Synod and I told him, "I fulfilled my part; I am expecting that you fulfill yours." He was very cold and he said, "I changed my mind." That was the end of our conversation. I had called the Sabor
3241 of the Canadian American Diocese subsequent to 1963, but not as administrator of the diocese.

3242 The boundaries of the Eastern Midwest and Western dioceses have been determined at a special church national assembly held in Detroit in 1964. The church national assembly is the body of the whole church in the United States of America and Canada and this body was brought into being by the constitution of the American Canadian Diocese. The
3243 assembly was composed of the three bishops and two delegates from each congregation of which one was the president of the congregation and the other was an elected delegate and all the clergy of the Serbian Orthodox Church of the United States of America and Canada who remained loyal to the Mother Church. I made no effort to call a Sabor of the Canadian American Diocese. In PX 121 I have
3244 stated that I am the only authority who can properly summon or preside over a Sabor and in that letter I requested that the call of the August 1963 be rescinded. However the Sabor call was not rescinded.

(Offer of proof.) The pendency of this litigation played a part in my decision not to call a Sabor. In July of 1963 I received a letter from the then secretary of the diocese, Archimandrite Dmitrije Balach in which he informed me that the diocesan council and the ecclesiastical court decided to prevent me from entering the property of St. Sava Monastery. Immediately after that there was a letter sent to all church congregations from Libertyville that the diocesan council decided to authorize Mr. Nicholas Stepanovich to find a law firm who would stop any action which I might take in receiving the property in Libertyville. I then wrote a letter to Dr. Seferovich calling his attention to the fact that he could not preside over the Sabor nor summon one and that only authorized persons could do that. Then on July 31st, I was served with a summons in Milwaukee by the Sheriff to come to the Court in Waukegan in this action. This was July 31st the day before I was consecrated Bishop. (End of the offer of proof.)

I received a letter from Reverend Balach sometime in July following the July 6th, 1963, meeting. Following the receipt of the letter from Reverend Balach a letter was sent by Bishop Dionisije and the Monastery in Libertyville to all church congregations. I recognize the document marked PX 151 which was received by Father Milan Brkich through the mail after July 24, 1963, in Milwaukee. I was present when he received it in an envelope bearing the letterhead the American Canadian Diocese and addressed the St. Sava Serbian Monastery postmarked Libertyville.

Discussions by counsel.

PX 152 does not bear a signature but just typewritten names. I first received this letter which was

sent to all the clergymen and all of the church congregations when I was present in Pittsburgh. Following my receipt of PX 152, I wrote a letter to Dr. Seferovich which is PX 121. However, I received no response. I was informed by the secretary of the diocese that the executive committee of the Serbian Orthodox Diocese of America and Canada had held a meeting subsequent to my dispatch of the letter, PX 121.

A Sabor was called in the year 1964 by the three bishops, Stefan Lastavica, Bishop Gregory and myself. The Sabor was held after the entry of the two orders of temporary injunction and clarification. At this Sabor the first we read all of the decisions of the Holy Assembly of Bishops and Holy Synod in connection with the church in America and Canada. Then we fixed temporary border lines between the dioceses and began to function as a church. Decisions were made and committees were elected and all of this information was sent to the Holy Assembly of Bishops and they approved. The Sabor was attended by more than 50 clergymen who accepted the decisions of the highest church authority and delegates from the church congregation who were not under the control of former Bishop Dionisije. The boundaries we fixed between the dioceses at that time were temporary because I was not able to summon regular Sabors where changes in the constitution could be effected and we informed the Holy Assembly of that. We were not able to call a regular Sabor because of this litigation and the injunction that had been entered. PX 153A is a letter received from the Holy Synod of Bishops of the Serbian Orthodox Church and is signed by the Serbian Patri-

arch German and contains the seal of the Holy Bish-
3280 op's Synod. The last paragraph of this document states that it is the decision of the see that the boundaries between the dioceses are temporary and only effective until a new constitution is adopted. Following the judgment and mandate of the Appellate Court of Illinois in this case, I undertook to perform my acts and duties in my capacity as administrator of the Canadian American Diocese. I called the clergy who did not obey the orders of the highest church authority to come back to the church and otherwise I would take some measures against them and I established an ecclesiastical court and proceeded against those clergymen who did not obey and were members of the former American Canadian
3281 Diocese. During the period from the commencement of this litigation I did not undertake to act as administrator of the Canadian American Diocese because of this case and I was under injunction. I did not want to do anything to disturb the court's order.

3284 PX 141A is a document written by Mr. Nicholas Stepanovich in his handwriting dated October 2nd, 1963, and the typed portion at the bottom is not the Serbian translation of the longhand on the top ex-
3288 cept for the first line. PX 142 are the minutes of the Sabor held in 1938 translated by the Reverend Lunich.

3289-3304 Admission of evidence, discussion by counsel.

3305 During the time I was secretary of the American Canadian Diocese I became acquainted with the newspaper *American Srbobran* which still exists today and is the official paper of the Serbian National Federal located in Pittsburgh, Pennsylvania, and it is published in Serbian and in English on a

3306 daily basis. Although not all were published many of the communications, reports or minutes of actions of committees or groups of the diocese were published in this newspaper. Many decisions of the diocesan council and diocesan assembly of the Sabor were published also. Usually a copy of the minutes or of a decision was sent to the Editor to be published and this custom continued after I ceased being secretary of the diocese. I do not know if this was the custom before I became secretary of the diocese.

3316 I have examined PX 150A and am familiar with the signature appearing in the left hand column which is the first signature. It is that of Bishop Irinej. The second signature is that of Tihom Popa-
3317 lovich who is from New York and when I was a priest in New York was president of the church congregation of St. Sava Cathedral in New York. I do not recognize the next two signatures but I recognize the Very Reverend Borivij Pavlovich which appears on the last line in the left hand column. I do not recognize the signature purporting to be that of George
3319 Kukich. PX 154 A is a copy of the by laws of the priests' pensions fund of the Serbian Orthodox American Canadian Diocese.

3320 *(Cross Examination of Bishop Firmilian)*

3322 I left Belgrade, Yugoslavia, in April 1940. (Offer of proof). When I left Belgrade Metropolitan Joseph
3324 told me that he had heard that there were charges against me. (The Court states that he will not let defense counsel as a part of their offer go into the
3325 conversation this witness had with Metropolitan Joseph concerning the charges). In 1938 I was Clerk of the Metropolitanate of Belgrade and then I was transferred to the Metropolitanate of Scorpia of

which Metropolitan Joseph is the metropolitan. I re-
3326 ceived a canonical letter from the Patriarch of the Serbian Orthodox Church informing me that was not under ecclesiastical authority and that I was accepted in the diocese of America and Canada. (The offer of proof is closed and refused). I ceased being
3327 secretary of the American-Canadian Diocese in 1957. In 1956 I put monies from the diocesan or monastery treasury into my own personal checking account. I
3328 don't know how much money was placed there. I wasn't exactly asked to submit my resignation as secretary but the situation was such that I didn't want to stay any longer as secretary. In 1957 I left and I informed Dionisije and I was under doctor's care in Chicago living at the Y for about three months. I never held the position as secretary of the diocese after 1957.

3329 The order appointing me administrator of the Midwest Diocese is dated May 17. At the plenum
3330 meeting on June 6, 1963, the motion was made to issue a call for the church national assembly to be held in August of 1963. I voted to advance the Sabor from September or October to August. I am administrator of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, an
3335 Illinois Religious corporation. I don't know if any members of the Holy Bishops' Assembly on or after May 11, 1963 were members of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation. At
3336 my discovery deposition on February 7, 1964, page 35, I stated that the three newly appointed bishops, Bishop Stefan, myself and Gregory were members of the Serbian Eastern Orthodox Diocese for the United States and Canada, a religious corporation.

3338 (Counsel advise the Court that "Sabor" and
3339 "Church National Assembly" are the same thing).
3341 (Offer of proof). The church national assembly (Sabor) is a diocesan assembly, not a corporation assembly. At my discovery deposition of February 7, 1964, I stated that I was responsible to the sabor or national assembly in administrative matters per-
3343 taining to properties, the corporation itself. (The offer of proof is closed and refused). I don't know how many members of the priests of the Midwest Diocese are members of the Lojitch group.

3344 I don't know whether a recording was made of the June 6, 1963, plenum meeting. At my discovery
3345 deposition of February 7, 1964, I stated that I knew
3347 that a tape recording was made of that meeting. I was appointed administrator of the Midwest diocese after the American-Canadian Diocese was reorganized on May 10, 1963. I demanded that Bishop Dionisije turn over to the American-Canadian Diocese and I guaranteed that I would return the whole diocese to him if he were acquitted by the delegation
3348 which was invited on that sabor. I do not recall saying, "Your Grace, I have been directed on behalf of our highest church authority that I accept the administration of this diocese, the Middlewest. . ."

3357 (Plaintiffs' counsel stipulates that the portion of PX 115 purporting to be statements by Metropolitan Damaskin is a true rendition of what was stated at
3367 the time). (Plaintiffs' counsel stipulate that a corporation could not be divided into three corporations by the Assembly of Bishops).

3369 The diocesan boards, church national assembly, diocesan council and diocesan executive board have nothing to do with the Holy Synod. The bishop transmits decisions of these boards to the Holy

Synod. These boards are the religious body. The churches in America and Canada don't belong to the
3370 corporation. Prior to May 1963 there was one religious body in the United States known as the Serbian Eastern Orthodox Diocese for the United States of America and Canada. There was one body in the United States after May 10. After May 10
3371 there were three dioceses. There is one body today and there are three dioceses today. This religious body I'm talking about had a written constitution which provided that the church national assembly in America and Canada initiated amendments to the constitution. These provisions of the constitution were binding upon that religious body. The constitution provides for church national assembly and a diocesan council which is divided into two parts and when the two parts meet together there's a plenum
3372 according to the constitution. The constitution also provides for an ecclesiastical court of the diocese. (Counsel for plaintiff states that PX 30 is the constitution of the religious body).

"The Witness: Yes, I know. The American-Canadian Diocese, according to the constitution, are independent in financial matters, not in church matters. The administration of school, property, money it collects, that's the jurisdiction of the church national assembly, to solve all of these financial matters."

3373 The three dioceses are part of the one religious body that now exists. The name of the presently existing religious body is Serbian Eastern Orthodox Diocese for the United States of America and Canada. There is a body known as the Serbian Orthodox Church in the United States that is all three

3374 dioceses. The Serbian Eastern Orthodox Diocese for the United States of America and Canada is the Serbian Orthodox Church in the United States. These are not two separate bodies. We have recently adopted the name "Serbian Orthodox Church in United States" on our stationery and used it in our literature but this is the diocese of America and Canada. There is no fourth diocese other than the
3375 Midwest, Eastern and Western. I am the administrator of the American-Canadian Diocese as the Synod ordered and, if that administration were given me, the Church National Assembly would decide the name and adopt changes in the constitution.

3378 DR. JOHN MEYENDORFF testified as follows:

Direct Examination.

3379 My name is John Meyendorff and I reside at 372 Scarsdale Road, Tuckahoe, New York. I am a professor of Patristics and Church History at St. Vladimir's Orthodox Theological Seminary located at Tuckahoe, and I am also on a part-time basis a Professor at Fordham University. I am a Professor of Byzantine History. I was born on February 17,
3380 1926, in Paris, France. I had my secular, secondary education in France where I was born after my parents came to France as political refugees from the Russian Revolution. I never lived in Russia, but my parents did. I was born in France and educated there and entered the University of Paris, Sorbonne. Thereafter I went to the Orthodox Theological Insti-
3381 tute of Paris. I received a university degree of LSL at the University of Paris and then pursued my doctorate which I received in 1958. While pursuing my doctoral studies at the University of Paris, I also

completed my theological studies at the Orthodox Theological Institute which is an independent institution in Paris. I have a degree in a Bachelor of Divinity.

3383 Byzantine History is the history of the Byzantine Empire which was a continuation of the Roman Empire through the Middle Ages until it fell under the Turks in 1453. Throughout the entire Medieval Period the Church of Constantinople which was the capitol of the Byzantine Empire was, in fact, the center of Orthodox Church life. Its primate or bishop was called the Ecumenical Patriarch. He is still called that although the Byzantine period does not exist anymore.

3384 My main interest in the field of Byzantine studies was connected with the history of the Orthodox
3385 Church and its institutions. I came to this country in 1959 to teach and was invited to occupy the position at St. Vladimir's Seminary. St. Vladimir's is a graduate school of theology recognized as such by the American Association of Theological Schools and all the proper agencies. It was created, I believe, in 1939 on the eve of the Second World War.

3386 There is a group known as the Faith and Order
3387 Commission of the World Council of Churches. The World Council of Churches was an ecumenical movement started at the beginning of this century by the protestant religions to try and promote christian unity. There were two branches of this movement, one called Faith and Order which emphasized primarily doctrinal, theological, administrative differences between the churches in order to solve them and discuss theology first. There was another branch which was called Life and Work which mainly was concerned with practical problems which would say

let's do things first and speak of what we believe after. In 1947 these two movements merged into the
3388 World Council of Churches. The Faith and Order group maintained some autonomy inside the World Council, and is a commission composed of thelogians of all churches and serves as a main theological body of the Council. The World Council of Churches today is a body in which most of your protestant denominations take part and practically all of the orthodox autocephalous churches are members. Therefore it represents a major part of the Christian world with the major exception of the Roman Catholic Church. I am a member of the Faith and Order Commission and have been appointed acting Chairman of the Commission last Summer.

I am familiar with the Dumbarton Oaks Center
3389 for Byzantine Studies at Harvard University. I had been a lecturer on the faculty there prior to my appointment to Fordham. I am still a member of the advisory board of scholars in this institution. I am an adjunct professor at Columbia University where I occasionally teach courses in Eastern Christianity.

3390 I wrote two dissertations for my Doctorate at the University of Paris, both of which were published.

3391 I have written a number of books. I was ordained
3396 in Paris prior to coming to America in 1959 as a Priest of the Russian Orthodox Church. I have
3397 made a substantial study of the canon law. The canons in the Orthodox Church are decrees or statements made by ecumenical councils and local councils which are recognized as having universal significance with respect to the Orthodox Church.

3398 The Orthodox Church recognizes the seven Ecumenical Councils of the first nine centuries of the Church. It also recognizes the authority of several

local councils which met in the same early period or even later as having authority, and their decrees are part of what we call canon law. I believe that it is important also to understand that the Orthodox Church does not have a code of canon law comparable to the Roman Catholic Church. In other words, the canons of the Orthodox Church have even been so far codified to the point of having one single book where you would have access to all problems. The
3399 Anglo-Saxon Common Law would be a closer model to what the Orthodox Canon Law is than, let's say, the code of Napoleon. Therefore, these canons from these various sources are included and accepted by all Orthodox Churches and the entire Orthodox
3400 Church today. In my studies and research I have devoted myself to the study of those canons and their histories.

3401 The universal church included both Roman Catholic Church in the West with headquarters in Rome, and the Orthodox Church in the East. The Schism occurred in the eleventh century and in the beginning there was a Patriarchate in Rome and in Constantinople. As a result of missionary activity in Northern and Eastern Europe, new churches were founded, first in Bulgaria, then Serbia, and then in Russia, which today are three independent Patriarchates. Each of these churches had the liturgy translated into its own tongue. Therefore, the Church became from the very start a Church of the people because of this translation. It was beginning to be rooted in national cultures and these new Churches claimed ecclesiastical independence from the Church of Constantinople which had created them. They
3402 received that independence from the Patriarchate of Constantinople. So the Serbian Church was established as an autocephalous independent church in the time of St. Sava, about the thirteenth century.

3403 All members of the Orthodox Churches believe in the universal church which includes all the churches of Jesus Christ. When the Serbian Orthodox Church became independent it means that it received the right to act as an ecclesiastical unit. It was not a new denomination which was created, but it was an administrative unit which enjoyed independence.

3404 It accepts the belief of the Orthodox Churches, that is the unity in faith and the same doctrinal statements and councils which are recognized as authority. Therefore they are not independent in doctrine and in canon law because they also accept the canons as spelled out by the Ecumenical Council which all of them recognize. What unites them is precisely this common faith and common allegiance to the same traditions. Now among these Orthodox Autocephalous Churches there is a hierarchical authority.

VERBATIM TESTIMONY

[3400] Q. And in your studies and research, you have devoted yourself to the study of those canons and the history of those canons, have you not?

A. Yes, I did.

Q. Now, will you please be good enough to tell us what the Orthodox Church is? And give us only just a brief amount of history so we can take it in perspective.

A. The Orthodox Church, as you know historically, is the Eastern half of the Christian world. There was a schism between Rome and the East in the eleventh century. Now, this Eastern half historically is called the Orthodox Church.

Now, today, as I mentioned before, the Byzantine Empire played a very important role in shaping the Orthodox Church in the past. Now, since the fall of the Byzantine Empire, many things have changed in the life of mankind, and the Orthodox Church toda, still is, therefore, a very traditional church of the community. It keeps many features which go back to the time of the Byzantine Empire, but, on the other hand, it has adapted its administrative structures to the changes which took place in history.

Originally when the schism with Rome took place
[3401] in the eleventh century, you had five Patriarchates in the universal church.

Q. Excuse me. Wha[illegible]s the universal church?

A. Well, that includes the West and the East. You see, the universal church by the eleventh century, that includes everyone.

Now, the Roman Bishops, the Bishop of Rome was the first of these Patriarchates. Now, four others were in the East. Of the four others, the four Patriarchates, No. 1, being that of Constantinople, the Bishop of Constantinople.

Now, with the emergence of new churches as a result of missionary activity in northern and eastern Europe and new churches being founded, first in Bulgaria, then in Serbia, then in Russia—these are the three main ones; there are other ones.

Now, each of these churches had the liturgy translated into their own tongues. Therefore, the church became, therefore, from the very start, a church of the people because of this translation. It was beginning to be rooted in national cultures, and these new churches claimed ecclesiastical independence from the Church of Constantinople which created them, and received that independence.

[3402] Q. From whom?

A. From the Patriarch, of course, of Constantinople. So the Serbian Church, for example—I will not mention the others—but the Serbian Church was established as an autocephalous, independent church in the time of St. Sava at the—in the 13th century, beginning of the 13th century, and it was established by the Patriarch of Constantinople who actually then was in exile in Nicaea. Nevertheless, this was the—

Mr. Holmquist: I didn't hear the last part of your answer.

The Witness: The Serbian Church was established as an independent, autocephalous church in the time of St. Sava and this establishment took place through the Patriarch of Constantinople who was then in exile in the city of Nicaea.

Mr. Jenner: Q. You mentioned that churches began to come into existence. When you used that expression, are these churches that just decided they were going to be churches, or were they part of a whole? Would you explain that for us?

A. Certainly. Of course, the word "church" can be used with different meanings. On the one hand, when we Orthodox Christians, whatever our national
[3403] background, recite the Creed and say we believe in one Holy, Catholic and Apostolic Church, we mean the universal church. Therefore, the word "church" can be—can designate the Church of Jesus Christ, I mean universally.

The word "church" also can designate local units, such as groups of dioceses, or even one single diocese can be called a church as in the New Testament writings, we could speak of the Church at Corinth, the Church at Rome. But also, the word "church"

can apply in this sense. Now, when I spoke of these historical facts, when I spoke of the Serbian Church being established by the Patriarch of Constantinople, the word "church" designates a grouping of all Christians living in Serbia and of Serbian nationality which received the right to act as an ecclesiastical unit.

Q. Of what?

A. Of the universal church; however, it was not a new denomination which is created, but it was an administrative unit which enjoyed independence in administration.

Now, this independence was granted to it by its Mother church, which was the Patriarchate of Constantinople.

[3404] Now, today—if I may just pursue, the Orthodox Church is a fellowship of churches. Each of these churches is called an autocephalous church.

Q. Explain that, please.

A. An autocephalous church—the word "autocephalous," the adjective "autocephalous" means—it comes from the Greek and it means the head, autocephalous. It means the church which elects its own head; therefore, it is an independent church.

Q. Is it independent in theology and in spirit?

A. It is not independent in theology. It accepts what Orthodox churches confess, to the unity in faith, and they all accept the same doctrinal statements of councils and recognizing only ecumenical councils as authority to legislate on doctrine.

Therefore, they are not independent in doctrine or in cannon law because they also accept the canons as spelled by the ecumenical council, which all of them recognize.

Therefore, what unites them is precisely this common faith and common allegiance to the same traditions.

Now, among them, these Orthodox autocephalous churches, there is an hierarchical authority.

ABSTRACTED TESTIMONY RESUMED

3405 In other words, in each Church a head occupies a position, though truly honorary, because all authority and power are totally identical, but the Patriarch in Constantinople, out of tradition and in consideration of the fact that he resides still in the place which was the capitol of the empire, and therefore the Mother Church for slavic churches, is considered as having the primacy of honor among the Patriarchs of the Orthodox Church. He is not a Pope of Orthodoxy. He enjoys the primacy of honor without any power over the eternal affairs of the churches. It is not possible within the Orthodox faith for an Orthodox Church within this unity to become an Orthodox Church all by itself, or a group just creating themselves as an Orthodox Church without permission from any source or group. New autocephalous churches are created by two fundamental acts. One is the blessing action of the Church which
3406 so far has exercised jurisdiction over them, or over a given territory.

3407 The Russian Church might be an example. Originally, it was under the jurisdiction of the Patriarch of Constantinople and received autocephaly from Constantinople. However, for the sake of historical accuracy, I must say that in several instances the beginnings of autocephalous churches were not without some tension. In the case of the Russian Church,

the Church proclaimed itself to autocephalous because the Patriarch of Constantinople had signed a union with the Church of Rome at the Council of Florence. The Russians considered that he had betrayed the faith and since he had betrayed the faith he had lost his right over them. They sort of established their church as autocephalous; but always when orthodoxy was restored in Constantinople and when the union of Florence was broken, they always sought recognition and received it of them.

3409 The second criteria for the creation of an autocephalous church is the recognition of this new church by all other autocephalous churches. In the Orthodox Church we do not have nominations. We are one church and no one church has the possibility to act completely by ignoring the opinion of others . The Mother Church grants autocephaly by the other churches recognizing that autocephaly. I believe there are fourteen autocephalous churches in the Orthodox Church today.

3411 Each Orthodox Church is a group of Dioceses. Now there is a standard requirement for the minimum number of Dioceses which must exist in an autocephalous church, and that is four. So for example, the smallest of the Orthodox Autocephalous Churches is Cyprus which has four dioceses. Now the reason for this four is that the canons prescribe that a new Bishop must be elected by at least three other Bishops and therefore if one of the four dies the three others can elect a successor. So any group that you see of three dioceses, theoretically, or four dioceses can apply for autocephalous.

3412 Hypothetically, if an autocephalous church consisting of four dioceses and four Bishops were to have two Bishops die, before three could elect another, then I would assume that the Church would ask for the help and participation of sister churches to elect and consecrate a Bishop. It is possible for four Bishops of four dioceses to proclaim that they are a church, but anyone can claim anything and recognition is the key. I would say self-proclaiming in and of itself is not sufficient.

3413 The Orthodox Church believes that all of the Bishops of the Church are of equal dignity and that their primary responsibility is to keep the unity of the Church. Therefore, when it is considered appropriate by anyone to create an autocephalous church in a particular area, it is important to secure unity in the belief that an autocephalous church is required. If therefore the conditions become sort of obvious, the Bishops will support a new autocephalous church. The conditions are first, the acceptance of the Church

3414 which so far has exercised jurisdiction in this particular area or over these particular people; and second, that all of the other Bishops from all of the other churches enter with this new church in fellowship and communion. If these two conditions are not fulfilled the creation of this new autocephalous church recites a Schism. In order to avoid that Schism one has to secure the fellowship of the Bishops of the whole Church. The Bishops of the different churches are in contact with each other through personal and business correspondence and this secures unity. At the election of the head of each of the Patriarchs, he sends a letter announcing his election to all the others who grant him recognition in return. If they take it that his election was properly conduct-

3415 ed. We go by consensus in the Orthodox Church and the consensus of all the churches, the consensus

of the Episcopate is what matters most of all. The Bishop is the spiritual and administrative head of a diocese in the Orthodox Church.

3416 According to the canons of the Church election of a Bishop is conducted by the Bishops of the Autocephalous Church to which he belongs, although the proceduers here may vary from local church to local church. For example, there are some churches which admit nomination by the Assembly of the Diocese, but this is for nomination only, and then the canonical election is held by the Bishops. As far as I can tell by the statutes of the Serbian Patriarchate and the Serbian Diocese, there is no provision for nomination by lay assembly. The Bishop can organize the diocese the way he wishes unless he is bound by some general bylaws which are valid for all of the dioceses of a particular church.

3417 Autocephalous churches are often connected with countries, such as the Serbian, Russian, Greek or Constantinople. These autocephalous churches cannot have jurisdiction in territories which belong to other churches. If a Russian Priest travels to Greece, he cannot celebrate the sacraments or act as a Priest without permission of the local Bishop. The Russian Church could not establish a diocese in Greece, ex-

3418 cept if for the sake of temporary expediency the Church of Greece gave its permission.

3419 As far as America is concerned the Church of Russia established a diocese here in 1840 and until the early 1920's all of the orthodox in this country were subject to this diocese. After 1921 the various national churches were established, including the Serbian, but this was done by permission of the Russian Bishop.